



**NEWBERRY COUNTY COUNCIL  
COUNTY COUNCIL AGENDA  
November 1, 2023  
6:00 P.M.**

Call to order: Todd Johnson, Chairman  
Invocation and Pledge of Allegiance: Nick Shealy, Council Member

1. Adoption of Consent Agenda:
  - a. Newberry County Council Executive Session Minutes – October 18, 2023.
  - b. Newberry County Council Meeting Minutes – October 18, 2023.
2. Additions, Deletions & Adoption of the Agenda.
3. A Proclamation declaring November as *Family Court Awareness Month* in Newberry County.
4. Ordinance No. 10-01-2023. 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 as to rezone one (1) real estate parcel totaling one (1) acre designated as TMS No. 339-1-10 from RG-General Residential to R2-Rural.
  - a. Third Reading
5. Ordinance No. 10-02-2023. An Ordinance adopting the Newberry County Fire Protection and Prevention Code, providing for periodic inspections and enforcement of the code, and establishing a process for appeals and penalties for violations.
  - a. Third Reading

6. Ordinance No. 10-03-2023. An Ordinance to authorize the County of Newberry, by Newberry County Council, to sell the real estate described on Attached Exhibit “A” which is incorporated herein by reference known as Tax Map number 451-10-1 to Trucast LLC upon such terms and conditions described in the bill of sale in Exhibit “B”.
  - a. Public Hearing
  - b. Second Reading
  
7. Ordinance 10-04-2023. An Ordinance to amend County Ordinance 12-30-10 to provide for alternative members of county committees.
  - a. Public Hearing
  - b. Second Reading
  
8. Resolution No. 11-23. A Resolution authorizing and approving the assignment and assumption of a fee in lieu of tax and incentive agreement and other matters related thereto.
  
9. Ordinance No. 11-01-2023. An Ordinance regulating public nuisances and unfit dwellings within Newberry County and providing procedures for enforcement and penalties for violation and matters related thereto.
  - a. First Reading
  
10. Appointments.
  
11. Public Comments.
  
12. Comments/Requests from County Administrator.
  
13. Comments/Requests from Council.
  
14. Future meetings:
  - a. Executive Committee – November 6 at 6 p.m. -- CANCELLED.
  - b. Veterans Day – Offices Closed - November 10
  - c. Newberry County Council – November 15 at 6 p.m.
  - d. Economic Development Committee – December 4 at 6 p.m.
  - e. Newberry County Council – December 6 at 6 p.m.
  
15. Adjournment.

**NEWBERRY COUNTY COUNCIL  
EXECUTIVE SESSION  
MINUTES  
October 18, 2023**

Newberry County Council met on Wednesday, October 18, 2023, at 5:00 p.m. in Council Chambers at the Courthouse Annex, 1309 College Street, Newberry, SC, for a regular scheduled executive session meeting.

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

PRESENT: Todd Johnson, Chairman  
Les Hipp, Vice Chairman (virtually)  
Karl Sease, Council Member  
Robert N. Shealy, Council Member  
Travis Reeder, Council Member  
Johnny Mack Scurry, Council Member  
Jeff Shacker, County Administrator  
Joanie Winters, County Attorney  
Eric Nieto, I.T. Director  
Andrew Wigger, Clerk to Council/PIO

Mr. Johnson called the meeting to order at 5:00 p.m. Mr. Johnson said this was council's first trial run of having an executive session ahead of time and said he hopes this is the start of something good.

**1. Executive Session**

- Mr. Reeder made a motion to go into executive session to discuss the items listed on the agenda; Mr. Sease gave the second and the motion was approved 5-0.
- Council went into executive session at 5 p.m.
- Mr. Shealy joined the meeting following the vote to go into executive session.

- Personnel Matter(s):
  - i. Discussion of matters related to compensation of elected and appointed officials pursuant to SC Code of Laws Section 30-4-70(a)(1).
- Legal Matter(s):
  - i. Discussion of matters related to the Board of Zoning Appeals pursuant to SC Code of Laws Section 30-4-70(a)(2).
- Real Estate Matter(s):
  - i. Mid-Carolina Commerce Park II. Pursuant to SC Code of Laws Section 30-4-70(a)(2).
  - ii. Newberry County Industrial Park. Pursuant to SC Code of Laws Section 30-4-70(a)(2).
- Mr. Shealy made a motion to come out of executive session, Mr. Sease gave the second and the motion was approved 6-0.
- Council came out of executive session at 6:00 p.m.
- Mr. Johnson said that Newberry County Council went into executive session for the aforementioned reasons and no action was taken.

## **2. Adjournment.**

- The executive session meeting was adjourned at 6:01 p.m.

**NEWBERRY COUNTY COUNCIL**

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**Todd Johnson, Chairman**

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**Andrew Wigger, Clerk to Council**

**Minutes Approved:** \_\_\_\_\_

**NEWBERRY COUNTY COUNCIL  
MINUTES  
October 18, 2023**

Newberry County Council met on Wednesday, October 18, 2023, at 6:01 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, Chairman  
Les Hipp, Vice Chairman (virtually)  
Karl Sease, Council Member  
Robert N. Shealy, Council Member  
Travis Reeder, Council Member  
Johnny Mack Scurry, Council Member  
Jeff Shacker, County Administrator  
Joanie Winters, County Attorney  
Eric Nieto, I.T. Director  
Liz McDonald, Assessor  
Donna Lominack, Auditor  
Karen Lindler Smith, Treasurer  
Karen Brehmer, Deputy County Administrator  
Debbie S. Cromer, Finance Director  
Crystal Waldrop, Purchasing Director  
Katie Werts, Director of Planning and Development Services  
Major Robert Dennis, NCSO  
Captain Ben Chapman, NCSO  
Andrew Wigger, Clerk to Council/PIO

**MEDIA:** Orion Griffin, The Newberry Observer

Mr. Johnson called the meeting to order at 6:01 p.m.

Council Member Karl Sease led the invocation and Pledge of Allegiance.

### 1. Adoption of Consent Agenda.

- Newberry County Council Meeting Minutes – October 4, 2023.
- Mr. Sease made a motion to accept the minutes as presented, Mr. Reeder gave a second and the motion was approved 6-0.

### 2. Additions, Deletions & Adoption of the Agenda.

- Mr. Scurry made a motion to adopt the agenda as presented, which was seconded by Mr. Shealy. The motion was approved 6-0.

### 3. Recognitions:

- Employee Service
  - Karen Brehmer            15 years        Administration
  - Ryan Dickert            20 years        Sheriff's Department
  - Karen Lindler Smith    35 years        Treasurer's Office
- Mr. Shacker recognized the above employees for their service to Newberry County, highlighting their accomplishments and pivotal moments while working for Newberry County.
- Mr. Johnson said that the employees of Newberry County are what make Newberry County so great and special. He added that they are thankful for each of them and what they do to make this a great place.

### 4. Public Appearances:

- **Steven Knapp – Executive Director of the Newberry Museum.**

- Mr. Knapp said he wanted to give an update of everything going on at the Newberry Museum.
- Mr. Knapp said they just wrapped up their exhibit on Masonic Lodges of Newberry County, he said that exhibit was very well received, garnering national attention with a National Masonic podcast called the Masonic Roundtable doing an episode on the exhibit.
- Mr. Knapp said all parts of the county, from Whitmire to Peak, were represented in this exhibit.
- Mr. Knapp said their current exhibit is celebrating 150 years of firefighting with the Newberry City Fire Department. He said they had over 180 people at the opening of the exhibit. He said this exhibit will run until March.
- Mr. Knapp said they recently received funding from the Newberry County Accommodation Tax, the City of Newberry Accommodation Tax and several grants which will allow them to update exhibit cases.
- Mr. Knapp said they are expanding the exhibits on each of the municipalities as they have more artifacts to display.
- Mr. Knapp said their Military Exhibit will grow the most because their military artifacts have quadrupled. He said this exhibit will grow to take over an entire wing of the building.
- Mr. Knapp said they are working on exhibits focusing on Newberry County churches and schools. He said they are working hard to cover all aspects of life in Newberry County.
- Mr. Knapp said they are increasing their community outreach, including working with the SC 250, telling the stories that have not been told, focusing on the stories of loyalist, African Americans, Native Americans, and women; partnered with the Rosenwald School Committee in Newberry; and now working with the Gallman Place project.

- Mr. Knapp said they are laying a plan to go decades into the future to ensure the museum is on the map.
  - Mr. Knapp said they are talking to the Royal Armory Museum, at Winsor Castle in London. He said that the museum has a rifle that was captured at the Battle of Mudlick Creek down near Chappells. He said he is in talks with them for at least a loan for 2026.
  - Mr. Knapp encouraged council members to stop by the museum to see what they are doing.
- **Lou Neiger – Electric Vehicles and Public Safety.**
    - Mr. Neiger spoke on protecting first responders in Newberry and that what was needed was special fire-retardant blankets, under vehicle nozzles and respirators. He said they are needed for electric vehicle fires with five thousand to nine thousand batteries packed in each average size EV. He said it can burn up to one thousand five hundred degrees Fahrenheit and the fire can reignite from two hours up to four days after the first fire.
    - Mr. Neiger said the battery gases, vapor and smoke are highly toxic and flammable.
    - Mr. Neiger said all state and county fire marshals, especially the City of Newberry and volunteer fire departments, should be in discussions to understand the best ways to address EV fires and help with funding the fire protection equipment.
    - Mr. Johnson requested this information be forwarded to Tommy Long (emergency services director) and to have Mr. Neiger come back to the next Public Safety Committee.

**5. Ordinance No. 10-01-2023. 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 as to rezone one (1) real estate parcel totaling one (1) acre designated as TMS No. 339-1-10 from RG-General Residential to R2-Rural.**

**a. Public Hearing**

- Mr. Johnson declared the Public Hearing open. With no one signing up or standing to speak. Mr. Johnson declared the public hearing closed.

**b. Second Reading**

- Mr. Shealy made a motion to approve the second reading, Mr. Sease gave the second and the motion was approved 6-0.

**6. Ordinance No. 10-02-2023. An Ordinance adopting the Newberry County Fire Protection and Prevention Code, providing for periodic inspections and enforcement of the code, and establishing a process for appeals and penalties for violations.**

**a. Public Hearing**

- Mr. Johnson declared the Public Hearing open. With no one signing up or standing to speak. Mr. Johnson declared the public hearing closed.

**b. Second Reading**

- Mr. Reeder made a motion to approve the second reading. Mr. Sease gave the second and the motion was approved 6-0.

**7. Consideration and approval of proposals for the architectural and engineering firms for the 2022 Capital Project Sales Tax (CPST) Projects (2023-13 and 2023-14).**

- Ms. Waldrop said the two solicitations go hand-in-hand and were broken down into two groups.
- Ms. Waldrop said Group One consisted of the Public Safety Complex, Town of Pomaria Community Center Renovations, and the Whitmire Town Hall Gym Renovations. She said they received nine responses and conducted in-person interviews with four of the firms: DP3 Architects, GMK, JLA and Rosenblum. The committee, she said, was made up of Mac Bartley, Karen Brehmer, Scott Sawyer, Jeff Shacker, and herself (all with Newberry County) and Josh Kale with Clayton Construction the county's construction manager for the 2022 CPST projects.
- Ms. Waldrop said Group Two consisted of the Downtown Amphitheater, Gallman School Renovations, Town of Prosperity Park Improvements, and the Little Mountain Reunion Park Improvements. She said they received six responses and interviewed three of those firms: Becker Morgan Group, DP3 Architects and JLA. Ms. Waldrop added that the committee consists of the same group.
- Ms. Waldrop said JLA and DP3 submitted responses for both solicitations and were shortlisted for interviews. She said the committee recommended that JLA provide architectural services for the Downtown Amphitheater and the Pomaria Community Center Renovations, and they recommended DP3 for the remainder of the mentioned projects.
- Ms. Waldrop said the committee agreed two firms are needed so these projects continue to move forward.
- Ms. Waldrop said The Detention Center Cell Block Addition will be awarded separately and they are in the review process of those submittals.
- Mr. Scurry made a motion for staff to enter negotiations with the recommended firms for the projects. Mr. Shealy gave the second, and the motion was approved 6-0.

**8. Ordinance No. 10-03-2023. An Ordinance to authorize the County of Newberry, by Newberry County Council, to sell the real estate described on Attached Exhibit “A” which is incorporated herein by reference known as Tax Map number 451-10-1 to Trucast LLC upon such terms and conditions described in the bill of sale in Exhibit “B”.**

**a. First Reading**

- Mr. Shacker said anytime the county wants to convey any interest in real property the county owns, they must use an ordinance.
- Mr. Shacker said the Trucast fee-in-lieu of tax agreement they were previously under is an old agreement that predates a change in legislation in terms of how that is handled. He said in exchange for a reduced incentive for the project, they had the option at the conclusion of the FILOT, which has been reached, to take ownership of the property. He said now they are exercising their option to take ownership of the property for nominal consideration.
- Mr. Sease made a motion to approve first reading, Mr. Scurry gave the second and the motion was approved 6-0.

**9. Ordinance 10-04-2023. An Ordinance to amend County Ordinance 12-30-10 to provide for alternative members of county committees.**

**a. First Reading**

- Mr. Shacker said this was an ordinance that members of council requested. He said Newberry County Council, some time ago, implemented a system of standing committees. At present, he said, there are four committees – Economic Development Committee, Executive Committee, Finance Committee, and a Public Safety Committee. Each committee is made up of three council members appointed by the chair.
- Mr. Shacker said some interest was expressed in having the ability to appoint an alternate when a committee member cannot attend. He

said there were a few instances where council members have not been able to attend.

- This Ordinance would allow, according to Mr. Shaker, them to designate an alternate and make the chair of the committee aware to ensure there is always a quorum.
- Mr. Johnson said he thinks this will be a wise move for them to move forward.
- Mr. Sease made a motion to approve the first reading, Mr. Shealy gave the second.
- During the discussion, Mr. Hipp thanked Mr. Sease for taking the initiative to make this happen.
- The motion was approved 6-0.

**10. Ordinance 10-05-2023. An Ordinance to provide for the issuance and sale of not exceeding thirty-five million, two hundred fifty thousand (\$35,250,000) general obligation bonds of Newberry County, South Carolina, the sale and issuance of general obligation bond anticipation notes in anticipation to the issuance of such bonds, and other matters relating thereto.**

**a. First Reading**

- Mr. Shacker said the 2022 CPST that was approved by the voters in November is the fifth Capital Sales Tax iteration they've had in Newberry County. He said the tradition has been to put two questions in front of the voters, one to approve the projects and two do you approve the issuance of debt and proceeds of which to fund projects concurrently.
- Mr. Shacker said in all five instances, voters have approved issuance of debt.
- Mr. Shacker said this ordinance will initiate the process to issue those bonds.
- Mr. Shacker said it may not be necessary to the \$35,250,000 and they will refine the numbers as they go through the process.

- Mr. Johnson asked if by doing this, they would allow the projects to move forward, and Mr. Shacker answered in the affirmative.
- Mr. Reeder made a motion to approve the first reading, Mr. Scurry gave the second and the motion was approved 6-0.

#### **11. Appointments.**

- Two appointments to the Newberry County Memorial Hospital Board (District 6).
  - Mr. Scurry made a motion to reappoint Mr. Frank M. Senn, Jr. to the Newberry County Memorial Hospital Board. Mr. Shealy gave the second, and the motion was approved 6-0.
  - Mr. Scurry made a motion to reappoint Ms. Doriece McMorris to the Newberry County Memorial Hospital Board. Mr. Reeder gave the second and the motion was approved 6-0.

#### **12. Council may take action on matters discussed during the 5 p.m. executive session.**

- Mr. Johnson made the following statement as part of Newberry County Council: On April 4, 2023, the Newberry Board of Zoning Appeals denied a request for a special exception to utilize a tract of rural acreage as a solar farm. As permitted by law, this denial was appealed by the property owner on June 6, 2023, and was heard by the Circuit Court of Common Pleas on August 23. On October 2, 2023, the same court issued an Order reversing the decision of the Board of Zoning Appeals. As a County, we must abide by the ruling of the Court.

#### **13. Public Comments.**

- There were no public comments.

#### **14. Comments/Requests from County Administrator.**

- Mr. Shacker said at the last meeting Ms. Jessie Long made a presentation asking for permission to submit a grant application through the legislative delegation to the South Carolina Parks and Recreation and Tourism Department for a PARD Grant. The request was for \$38,400 to make improvements to Lynch's Woods Park; he said the county was awarded that grant. He said the match requirement for that grant was \$9,600 and the event rental fee associated with letting the Spartan Race utilize Lynch's Woods Park this year and last year, the proceeds for that will cover the match for the grant and the previous grant council approved (a recreation trails program grant).
- Mr. Shacker said that the clarification for the Newberry County/Richland County Boundary has been finalized and information on that can be found at the South Carolina Revenue and Fiscal Affairs Office's website. He said they have a page dedicated to the boundary and there are no major impacts on property owners and no impacts on structures.
- Mr. Shacker said they had several CPST action items, and they are moving quickly to get the projects designed.

#### **15. Comments/Requests from Council.**

- Mr. Shealy said this was a great meeting and they had a great presentation from the Newberry Museum.
- Mr. Sease said it was a good choice to move the Executive Session.
- Mr. Reeder said it is good to see everyone at the meeting and that a lot of things are going on and keep up the good work.
- Mr. Hipp thanked everyone for making it available for him to Zoom in to the meeting and he said it was a good idea to have the Executive Session first.
- Mr. Johnson said moving Executive Session worked out well.

16.Future meetings:

- a. Newberry County Council – November 1 at 6 p.m.
- b. Executive Committee – November 6 at 6 p.m.
- c. Newberry County Council Goal Setting Session – November 9 at 4 p.m. (CANCELLED)
  - o Mr. Johnson said in talking to Mr. Shacker, they felt it would be better to hold this session after the first of the year as they get closer to the budget season, to align the budget with the council’s goal planning. As there was no objection, council chose to cancel the session.
- d. Veterans Day – Offices Closed - November 10.
- e. Newberry County Council – November 15 at 6 p.m.

17.Adjournment.

- Mr. Shealy made a motion to adjourn the meeting, Mr. Reeder gave the second. The motion was approved 6-0 and the meeting adjourned at 6:47 p.m.

**NEWBERRY COUNTY COUNCIL**

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**Todd Johnson, Chairman**

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**Andrew Wigger, Clerk to Council**

**Minutes Approved:** \_\_\_\_\_

COUNTY OF NEWBERRY )  
 )  
STATE OF SOUTH CAROLINA )

**PROCLAMATION  
FAMILY COURT AWARENESS MONTH**

**WHEREAS**, the mission of the Family Court Awareness Month Committee (FCAMC) is to increase awareness on the importance of a family court system that prioritizes child safety and acts in the best interest of children; and

**WHEREAS**, the mission at the FCAMC is fueled by the desire to create awareness and change in the family court system for the conservatively estimated, 58,000 children a year ordered into unsupervised contact with abusive parents, while honoring the hundreds of children who have been reported as murdered during visitation with a dangerous parent; and

**WHEREAS**, the mission of the FCAMC is to increase awareness on the importance of empirically-based education and training on domestic violence and child abuse, including emotional, psychological, physical, and sexual abuse, as well as childhood trauma, coercive control, and post separation abuse for judges and all professionals working on cases within the family court system; and

**WHEREAS**, the mission of the FCAMC is to increase awareness on the importance of using scientifically valid, evidence-based, treatment programs and services that are proven in terms of safety, effectiveness, and therapeutic value; and

**WHEREAS**, the mission at the FCAMC is to educate judges and other family court professionals on evidence-based, peer-reviewed research. Such research is a critical component to making decisions that are truly in the best interest of children; and

**NOW, THEREFORE**, Newberry County Council, does hereby declare the Month of November, to be Family Court Awareness Month.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the Seal of the State of South Carolina,

**DONE** at the Newberry, SC this 1<sup>st</sup> day of November 2023.

**NEWBERRY COUNTY COUNCIL**

**SEAL**

**BY:** \_\_\_\_\_  
**Todd Johnson, Chairman**

**ATTEST:** \_\_\_\_\_  
**Andrew Wigger, Clerk to Council**



**Newberry County  
Administration**  
1309 College Street  
Newberry, SC 29108  
803-321-2100

### Agenda Briefing

Prepared By: Katie Werts	Title: Director of Planning & Development
Department: Planning & Development	Division: Zoning
Date Prepared: September 25, 2023	Meeting Date: October 4, 2023
Legal Review	Date:
Budget Review:	Date:
Approved for Consideration: Planning Commission	Date: September 19, 2023
Request Consideration by Committee / County Council	
Subject: Ordinance #10-01-2023 - 2601 Wilson Road Rezoning	

**STAFF'S RECOMMENDED ACTION:**

Staff and the Planning Commission both recommend the council to rezone the 1-acre parcel to R2-Rural from RG-General Residential for the use of commercial storage in an existing vacant building.

**FIDUCIARY:**

Are Funds allocated in the department's current fiscal year budget?		Yes		No
If no, is a budget amendment necessary?		Yes		No

**ADDITIONAL FISCAL/BUDGETARY MATTERS TO CONSIDER:**

N/A

**COUNTY ATTORNEY'S OFFICE FEEDBACK/POSSIBLE AREA (s) OF LEGAL EXPOSURE:**

N/A

#### SUMMARY DISCUSSION:

This is a request by Ben Lovro to rezone one (1) parcel of land totaling one (1) acre located at 2601 Wilson Road, Newberry, from RG -General Residential to R2-Rural. The proposed use of this property is storage unit using the existing vacant building on the property.

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

Staff recommends the rezoning to R2-Rural, and the Planning Commission unanimously voted to recommend the rezoning.

#### ADDITIONAL COMMENTS FOR CONSIDERATION:

N/A

#### ATTACHMENTS:

Staff Report



# Newberry County

## Planning Commission Staff Report

**Request:** Rezoning request MA02-09-19-23 by applicant Ben Lavro. This request is to rezone one (1) property totaling one (1) acre located at 2601 Wilson Road, Newberry, from RG- General Residential to R2-Rural.

**Application Number:** MA02-09-19-23

**Applicant:** Ben Lavro

**Property Owner(s):** Sagrario Mendez Trustee

**Location Address:** 2601 Wilson Road, Newberry

**Tax Map Number(s):** 339-1-10

**Lot Size:** 1 acre

**Current Land Use:** Existing Vacant Building

**Proposed Land Use:** Use existing vacant building for storage.

**Current Zoning District:** RG-General Residential

**Proposed Zoning District:** R2-Rural

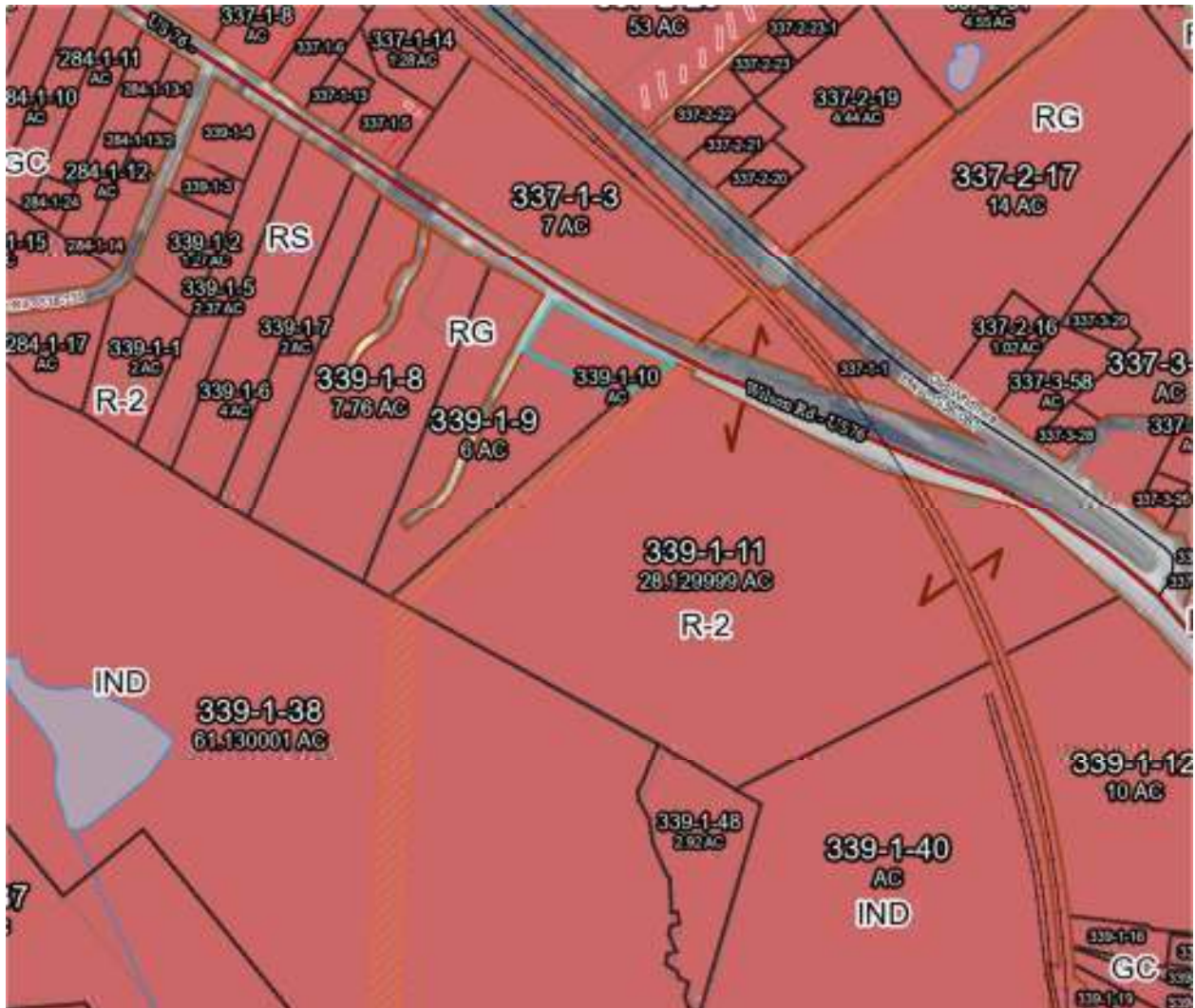
**Comprehensive Plan Designation:** Economic Development

**Zoning Map:****Current Zoning District**

RG – General Residential: The RG district is intended to accommodate a wide range of residential uses including detached single-family (site-built and manufactured homes), duplexes, multi-family, townhouses, and patio homes at higher population densities. Compatible uses such as home occupations, K-12 education, day care, recreation, and religious uses are also allowed. Manufactured home parks may be permitted as a special exception.

**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 Ben Lovro to rezone one (1) parcel of land totaling one (1) acre located at 2601 Wilson Road, Newberry, from RG -General Residential to R2-Rural. The proposed use of this property is storage unit using the existing vacant building on 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:** Staff recommend the rezoning of the property to R2-Rural.

**Planning Commission:** Planning Commission with a unanimous vote recommends the rezoning to R2-Rural.



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 properties located at 2601 Wilson Road, 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. 339-1-10 totaling one (1) acre located at 2601 Wilson Road, 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 RG-General Residential.

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. 339-1-10, totaling one (1) acre 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:**

\_\_\_\_\_  
Andrew Wigger, Clerk to Council

1<sup>st</sup> reading: \_\_\_\_\_  
2<sup>nd</sup> reading: \_\_\_\_\_  
Public Hearing: \_\_\_\_\_  
3<sup>rd</sup> reading: \_\_\_\_\_

Reviewed and approved as to form:  
\_\_\_\_\_  
Attorney

\_\_\_\_\_  
County Administrator



**Newberry County  
Administration**  
1309 College Street  
Newberry, SC 29108  
803-321-2100

### Agenda Briefing

Prepared By: Katie Werts	Title: Director of Planning & Development
Department: Planning & Development	Division: Fire Marshal
Date Prepared: September 27, 2023	Meeting Date: October 4, 2023
Legal Review	Date:
Budget Review:	Date:
Approved for Consideration:	Date:
Request Consideration by Committee / County Council	
Subject: Ordinance #10-02-2023 - Fire Protection and Prevention Ordinance	

**STAFF'S RECOMMENDED ACTION:**

**FIDUCIARY:**

Are Funds allocated in the department's current fiscal year budget?		Yes		No
If no, is a budget amendment necessary?		Yes		No

**ADDITIONAL FISCAL/BUDGETARY MATTERS TO CONSIDER:**

N/A

**COUNTY ATTORNEY'S OFFICE FEEDBACK/POSSIBLE AREA (S) OF LEGAL EXPOSURE:**

N/A

**SUMMARY DISCUSSION:**

The Fire Protection and Prevention Ordinance outlines the adoption, enforcement, inspections, appeals and penalties for the commercial inspections by the Fire Marshal.

**ADDITIONAL COMMENTS FOR CONSIDERATION:**

N/A

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF NEWBERRY )

ORDINANCE NO. 10-02-23

**AN ORDINANCE ADOPTING THE NEWBERRY COUNTY FIRE PROTECTION AND PREVENTION CODE, PROVIDING FOR PERIODIC INSPECTIONS AND ENFORCEMENT OF THE CODE, AND ESTABLISHING A PROCESS FOR APPEALS AND PENALTIES FOR VIOLATIONS**

**WHEREAS**, the County Council of the County of Newberry desires to establish a fire protection and prevention program to protect public health, safety, property and general welfare within Newberry County, South Carolina; and

**WHEREAS**, the International Code Council has developed the International Fire Code, which establishes minimum regulations for fire prevention and fire protection systems using prescriptive and performance-related provisions; and

**WHEREAS**, the State of South Carolina has adopted the International Fire Code, which is administered statewide by the Office of the State Fire Marshall, a division of the South Carolina Department of Labor, Licensing and Regulation (SCLLR); and

**WHEREAS**, political subdivisions of South Carolina are authorized by the State of South Carolina to adopt, administer, and enforce the International Fire Code within their jurisdiction.

**NOW, THEREFORE BE IT ORDAINED** by the County Council of the County of Newberry, in Council duly assembled this 1<sup>st</sup> day of November 2023 that:

1. **Adoption:** This article shall be known as the Newberry County Fire Protection and Prevention Code. The county hereby adopts the International Fire Code and the administrative chapters of the above-listed code, current edition. A file of record of this code is maintained in the Planning and Development Department.
2. **Responsibility for enforcement:** The Fire Marshal or duly designated county official shall be responsible for the enforcement of the Newberry County Fire Protection and Prevention Code.
3. **Inspections:** The enforcing official shall inspect all commercial premises on a periodic basis at reasonable times and shall issue such orders as may be necessary for the enforcement of the Newberry County Fire Protection and Prevention Code and for safekeeping of life and property from fire.
4. **Remedy of dangerous conditions:** Whenever the enforcing official shall find in any building any violations the enforcing official shall provide in writing all violations, date of inspection when the violation was determined, specific orders for abatement or remediation of the violation and a date for completion of the abatement.

5. **Appeals:** An appeal may be requested by the owner of the building where a violation was found. An appeal may be made to the Newberry County Building, Fire and Nuisance Codes Board of Appeals by such person. The Board shall hear any case involving a violation and make rulings on the interpretation of the violation, and timeframe and manner in which the violation is mitigated. The Appeals Board shall not levy fines or penalties on the property owner or amend the standards of this ordinance.
  
6. **Penalties:** Any person deemed to be in violation of this Ordinance after having received a violation notification with an established timeframe for abatement shall be issued a citation charging such person(s) with a misdemeanor. A guilty plea or judgement by the Newberry County Magistrate's Office shall be punishable by a fine of no more than \$500 unless otherwise noted in this ordinance. Each day such violation continues after due notice to discontinue such violations shall be considered a separate offense. In addition, the Fire Marshal or other appropriate administrative official, may in accord with the provisions of Section 56-7-80 of the South Carolina Code of Laws 1976, as amended, issue an ordinance summons, or institute injunction, mandamus, or take any other appropriate actions or proceedings required to enforce this Ordinance.

**NEWBERRY COUNTY COUNCIL**

(SEAL)

**BY:** \_\_\_\_\_  
**Todd Johnson, Chairman**

**ATTEST:**

\_\_\_\_\_  
**Andrew Wigger, Clerk to Council**

**Approved as to form:**

\_\_\_\_\_  
**Joanie Winters, Interim County Attorney**

\_\_\_\_\_  
**Jeff Shacker, County Administrator**

**1<sup>st</sup> Reading:**                    **October 4, 2023**  
**2<sup>nd</sup> Reading:**                   **October 18, 2023**  
**Public Hearing:**               **October 18, 2023**  
**3<sup>rd</sup> Reading:**                 **November 1, 2023**

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF NEWBERRY )

Ordinance No. 10-03-2023

**AN ORDINANCE TO AUTHORIZE THE COUNTY OF NEWBERRY, BY NEWBERRY COUNTY COUNCIL, TO SELL THE REAL ESTATE DESCRIBED ON ATTACHED EXHIBIT "A" WHICH IS INCORPORATED HEREIN BY REFERENCE KNOWN AS TAX MAP NUMBER 451-10-1 TO TRUCAST LLC UPON SUCH TERMS AND CONDITIONS DESCRIBED IN THE BILL OF SALE THAT IS EXHIBIT B**

WHEREAS, under the Ordinances of Newberry County, it is necessary for Newberry County Council to pass an Ordinance and have a public hearing whenever it sells county property; and

WHEREAS, Newberry County owns property being and situate within the Newberry County, specifically in the Newberry Industrial Park, and being a certain parcel or tract of land known as known as Tax Map No. 451-10-1; and

WHEREAS, Newberry County Council had determined that it is in the best interest of the County and the citizens of Newberry County to approve the sale of said property to Trucast LLC. upon such terms and conditions as described in the Bill of Sale that is Exhibit B and incorporated herein by reference.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL FOR NEWBERRY COUNTY, SOUTH CAROLINA, DULY ASSEMBLED THAT THE FOLLOWING ORDINANCE IS HEREBY ADOPTED:**

Newberry County Council does hereby authorize the sale of the real estate described on attached Exhibits "A" and "B" upon such terms and conditions and stipulations and agreements as described in approved agreement of sale and any amendments thereto.

This Ordinance shall be effective upon adoption by the Newberry County Council on the date of the final reading approval.

Enacted and approved this \_\_\_\_ day of \_\_\_\_\_, 2023.

**DONE IN MEETING DULY ASSEMBLED**, this \_\_\_\_ day of \_\_\_\_\_ 2023.

**COUNTY COUNCIL OF NEWBERRY COUNTY**

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Todd Johnson, Chairman  
County Council of Newberry County

**ATTEST:**

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Andrew Wigger  
Clerk to County Council of Newberry County

First Reading:           October 18, 2023  
Second Reading:       November 1, 2023  
Public Hearing:           November 1, 2023  
Third Reading:          November 15, 2023

## EXHIBIT A

All that certain tract of land, containing 8.00 acres, more or less, situate, lying and being on the south side of S.C. Highway #219, east of the City of Newberry, in the County of Newberry, in the State of South Carolina, as more particularly shown as 8.00 acres, more or less, on a Survey and Plat prepared for Newberry County by Tom Abraham Land Surveying, dated March 11, 1996, and recorded in the Office of the Clerk of Court for Newberry County in Plat Book B-75 at Page 6.

Further reference being made to Final Plat of Newberry Industrial Park prepared for Newberry County by Tom Abraham Land Surveying, dated December 18, 1998, and recorded in the Office of the Clerk of Court for Newberry County in Plat Book B-132 at Page 1, re-recorded in Plat Book B-157 at Page 6.

Said property having such metes and bounds as shown on the aforesaid latter plat, which is incorporated herein by reference.

ALSO:

Easement for access, ingress, and egress over and across that sixty-six (66') foot right-of-way as shown on the above survey and plat.

ALSO:

Easement for access, ingress, and egress over and across that forty (40') foot Buffer (Newberry County) adjacent to S.C. Hwy. #219 also shown on the above survey and plat.

This being a portion of the same property conveyed to Newberry County by deed of Interstate Properties of Newberry County in Deed Book 435 at Page 249. See also quitclaim deed dated January 27, 1999, and recorded in said Office in Deed Book 503 at Page 258.

This conveyance is made subject to all conditions, covenants, easements, restrictions, and rights of way indicated by instruments appearing of record in the chain of title of the subject property, or those visible upon an actual physical inspection of the subject property, and to all applicable zoning or other land use regulations or restrictions of any political subdivision in which the subject property is situate.

**EXHIBIT B**  
**BILL OF SALE**

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF NEWBERRY )

Ordinance No. 10-04-2023

**AN ORDINANCE TO AMEND COUNTY ORDINANCE 12-30-10  
TO PROVIDE FOR ALTERNATIVE MEMBERS ON COUNTY COMMITTEES**

**WHEREAS**, pursuant to S.C. Code §4-9-170 and Newberry County Ordinance 12-30-10, Newberry County Council has the authority to create boards and commissions necessary and proper to provide services of local concern for public purposes; and

**WHEREAS**, the Newberry County Council further has the authority to prescribe the functions thereof and to regulate, modify, merge or abolish any such boards and commissions; and

**WHEREAS**, both State and County Code sections contemplate the creation of County Council Committees who are appointed by the sitting Chair, or in his or her absence, the sitting Vice-Chair; and

**WHEREAS**, in the interest of maintaining a proper and steady course of business for the County, it is important for meetings of committees to be fully staffed; and

**WHEREAS**, County Council members who sit on a County Council Committee need the ability to provide an alternative member on their Committee where they find they are unable to attend such meeting; and

**WHEREAS**, the existing County ordinance does not provide for this substitution.

**NOW, THEREFORE BE IT RESOLVED THAT NEWBERRY COUNTY COUNCIL BY PASSAGE OF THIS ORDINANCE DOES HEREBY AUTHORIZE COUNTY COUNCIL MEMBERS TO PROVIDE AN ALTERNATIVE MEMBER ON THEIR COMMITTEE WHERE THAT COUNTY COUNCIL MEMBER FINDS THEMSELVES UNABLE TO ATTEND A COMMITTEE MEETING AND SHALL INFORM THE COMMITTEE CHAIR OF SUCH SUBSTITUTION.**

This Ordinance shall be effective upon adoption by the Newberry County Council on the date of the final reading approval.

Enacted and approved this \_\_\_\_ day of \_\_\_\_\_, 2023.

**DONE IN MEETING DULY ASSEMBLED**, this \_\_\_\_ day of \_\_\_\_\_ 2023.

**COUNTY COUNCIL OF NEWBERRY COUNTY**

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Todd Johnson, Chairman  
County Council of Newberry County

**ATTEST:**

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Andrew Wigger

Clerk to County Council of Newberry County

First Reading:           October 18, 2023  
Second Reading:       November 1, 2023  
Public Hearing:           November 1, 2023  
Third Reading:          November 15, 2023

**Newberry County  
Administration**

1309 College Street  
P.O. Box 156  
Newberry, SC 29108  
803-321-2100



**Agenda Item Briefing**

**Subject:** Schweitzer-Mauduit International, Inc. Request for FILOT Assignment to SWM Holdings, LLC

**Prepared By:** Rick Farmer

**Title:** Director

**Department/Division:** Economic Development

**Date Prepared** 10/25/23

**Legal Review:** \_\_\_\_\_

**Date:** Click or tap to enter a date.

**Finance Review:** \_\_\_\_\_

**Date:** Click or tap to enter a date.

**Administrator Review:** \_\_\_\_\_

**Date:** Click or tap to enter a date.

**Requested meeting:**  Committee  County Council

**Meeting Date:** Wednesday, November 1, 2023

**FIDUCIARY:**

Are funds allocated in the department’s current fiscal year budget?

Yes

No

If NO, is a budget amendment necessary?

Yes

N

**STAFF’S RECOMMENDED ACTION:** Staff recommends Council assign an existing FILOT from one company to another company, in light of a pending sale. In 2018, Newberry County entered a FILOT agreement with Schweizer-Mauduit International, Inc. The Engineered Papers division of Schweizer-Mauduit International, LLC is in the process of being sold to a company called Evergreen Hill. Evergreen Hill has created a new holding company called SWM Holdings, LLC. The buyer and seller both request that Newberry County assign this active FILOT agreement to SWM Holdings, LLC. The new owners have indicated that they plan to keep the plant open and abide by the conditions within the 2018 FILOT.

This is a statement from Evergreen Hill: *“Evergreen Hill’s general expectation is to operate the engineered papers business (the “Business”) as a standalone business. Based on current expectations and assumptions, there are currently no plans to discontinue any operations in connection with the closing of the transaction, including those at the Prosperity plant in Newberry County, South Carolina. We expect, and hope, that the US operations, including those in Newberry County, will continue to serve North American customers and to play the critical role to the Business they have played in the past.”*

**ADDITIONAL FISCAL/BUDGETARY MATTERS TO CONSIDER:** This assignment will not negatively impact the FILOT revenues from the local plant.

**SUMMARY DISCUSSION:**

**ADDITIONAL COMMENTS FOR CONSIDERATION:**

**ATTACHMENTS:**

## RESOLUTION NO. 11-23

### A RESOLUTION AUTHORIZING AND APPROVING THE ASSIGNMENT AND ASSUMPTION OF A FEE IN LIEU OF TAX AND INCENTIVE AGREEMENT BY AND BETWEEN SCHWEITZER-MAUDUIT INTERNATIONAL, INC AND SWM Holdings US, LLC; AND OTHER MATTERS RELATED THERETO.

**WHEREAS**, Newberry County, South Carolina (the "**County**"), acting by and through its County Council (the "**County Council**"), is authorized and empowered, under and pursuant to the provisions of Title 12, Chapter 44 (the "**FILOT Act**") and Title 4, Chapter 1, Code of Laws of South Carolina 1976, as amended (the "**Code**") to enter into agreements with industry, to offer certain privileges, benefits and incentives as inducements for economic development within the County; to acquire, or cause to be acquired, properties as may be defined as "projects" in the FILOT Act and to enter agreements with the business or industry to facilitate the construction, operation, maintenance and improvement of such projects; to enter into or allow financing agreements with respect to such projects; and to accept any grants for such projects through which powers the industrial and business development of the State of South Carolina (the "**State**") will be promoted, whereby the business or industry would pay fees-in-lieu-of taxes with respect to qualified investment in projects; through all such powers, the industrial development of the State will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate or remain in the State and thus utilize and employ the manpower, products and resources of the State and benefit the general public welfare the County by providing services, employment, recreation or other public benefits not otherwise provided locally; and

**WHEREAS**, Schweitzer-Mauduit International, a corporation organized and existing under the laws of the State of Delaware ("**Assignor**"), and the County are party to that certain Fee in Lieu of Tax and Incentive Agreement dated as of December 5, 2018 (the "**FILOT Agreement**"), wherein the County agreed to provide certain incentives with respect to certain real property more particularly described in the FILOT Agreement and improvements and other property now or hereafter located thereon; and

**WHEREAS**, Assignor has agreed to convey to SWM Holdings US, LLC ("**Assignee**"), any and all property subject to the FILOT Agreement (the "**Transferred Property**"), pursuant to one or more transactions as well as certain documentation relating to the purchase, sale, and conveyance of the Transferred Property, all expected to be consummated following the approval of this resolution (the actual date, the "**Conveyance Date**"); and

**WHEREAS**, Assignor and Assignee desire to enter into that certain Assignment and Assumption of Fee in Lieu of Tax and Incentive Agreement (the "**Assignment**"), wherein and whereby Assignor shall assign to Assignee, and Assignee shall assume, all of Assignor's right, title and interest to and under the FILOT Agreement, including but not limited to, the terms, covenants, conditions and agreements of the FILOT Agreement as they relate to the Transferred Property, all as of the Conveyance Date; and

**WHEREAS**, Assignor and Assignee have requested that the County authorize, ratify, approve and consent to such conveyance and assignment to Assignee, to be effective as of the Conveyance Date, in accordance with the provisions of the FILOT Agreement and Section 12-44-

120 of the Code, including the transfer of the Transferred Property to Assignee; and

**WHEREAS**, the County Council has caused to be prepared and presented to this meeting the form of the Assignment which the County proposes to execute and deliver; and

**WHEREAS**, it appears that the document above referred to, which is now before this meeting, is in appropriate form and is an appropriate instrument to be executed and delivered or approved by the County for the purposes intended.

**NOW, THEREFORE, BE IT RESOLVED**, by the County Council as follows:

Section 1. The County hereby authorizes, ratifies, approves and consents to the sale and conveyance of the Transferred Property and the assignment of the FILOT Agreement by Assignor to Assignee, all effective as of the Conveyance Date. Pursuant to the terms of the Assignment, Assignor shall assign to Assignee, and Assignee shall assume, all of Assignor's right, title and interest to and under the FILOT Agreement, including, but not limited to, the terms, covenants, conditions and agreements of the FILOT Agreement as they relate to the Transferred Property. Such authorization, ratification, approval and consent of the County shall be further evidenced by the Assignment.

Section 2. The form, terms and provisions of the Assignment presented to this meeting are hereby approved and all of the terms and provisions thereof are hereby incorporated herein by reference as if the Assignment was set out in this Resolution in its entirety. The Chairman of County Council and the County Administrator are hereby authorized, empowered and directed to execute, acknowledge and deliver the Assignment in the name of and on behalf of the County, and the Clerk to County Council is hereby authorized and directed to attest the same, and thereupon to cause the Assignment to be delivered to Assignor and Assignee. The Assignment is to be in substantially the form now before this meeting and hereby approved, or with such minor changes therein as shall be approved by the County Administrator, upon advice of counsel, his execution thereof to constitute conclusive evidence of his approval of any and all changes or revisions therein from the form of Assignment now before this meeting.

Section 3. The Chairman of County Council, the County Administrator and the Clerk to County Council, for and on behalf of the County, are hereby authorized and directed to do any and all things necessary to effect the execution and delivery of the Assignment and the performance of all obligations of the County thereunder.

Section 4. The provisions of this Resolution are hereby declared to be separable and if any section, phrase or provisions shall for any reason be declared by a court of competent jurisdiction to be invalid or unenforceable, such declaration shall not affect the validity of the remainder of the sections, phrases and provisions hereunder.

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

*[End of Resolution]*

**DONE** in meeting duly assembled this 1<sup>st</sup> day of November 2023.

**NEWBERRY COUNTY, SOUTH CAROLINA**

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Todd Johnson  
Chairman of County Council

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Jeff Shacker  
County Administrator

**ATTEST:**

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Andrew Wigger  
Clerk to County Council  
Newberry County, South  
Carolina



Pursuant to the County's police powers, public nuisance properties are hereby declared to constitute a public nuisance and are subject to enforcement and abatement as described herein. The nuisance abatement process hereinafter set forth may be used by the County in conjunction with any and all legal actions available to the governing body.

It is the County's intent:

- A. To identify public nuisance activities and public nuisance conditions.
- B. To hold accountable those persons responsible for such nuisance activities and/or conditions on the property.
- C. To assist victims of crime and penalize those who commit crimes or those who permit conditions to exist that give rise to crime or excessive calls for service.
- D. To establish rules, procedures, and penalties to address property owners and occupants that have public nuisance issues and fail to take corrective measures.
- E. To work in partnership with the owners and occupants to address the negative results caused by public nuisance activities and/or conditions and to improve the vitality of neighborhoods by addressing excessive calls for service.
- F. To encourage owners and operators to abate conditions considered a nuisance through a local government process which is separate from the County's Magistrate Court system.
- G. To establish a means for the County to abate public nuisance properties in the event the owner or occupant is unwilling or unable to correct such conditions in a timely manner.

#### § 157.002 DEFINITIONS.

Words used in this chapter shall have their customary meanings as determined by the standard dictionary definition except for the following specific words and terms which are herein defined. In any case, the Code Enforcement Officer, or other County designee shall have the right to define or interpret any words or terms contained within this chapter.

**Abandoned Building** means any building that is both: a) vacant and/or dangerous or in need of repair greater than 50% of its fair market value, and b) not occupied by the property owner, family member, renter, lessee or other legal occupant for a period of six months or longer.

**Abandoned/Junk Vehicle** means any vehicle, automotive or marine, that is mechanically inoperable, including any vehicle that is wrecked or partially dismantled, and has been unregistered for a period longer than 30 days.

**Abate** means repair, replace, remove, destroy or other otherwise remedy the condition in question by means, in such time, in such a manner and to such an extent as the enforcement officer shall determine to be in the best interest of the public, taking into account all facts and circumstances.

**Building** means any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of persons or property.

**Building Materials** means any material such as lumber, brick, plaster, gutters or other substances accumulated as a result of repairs or additions to existing buildings, construction of new buildings or demolition of existing structures.

**Close and Secure** or **Closing and Securing** means compliance with the provisions of this chapter regarding minimum standards for uninhabited or vacant buildings.

**Code Enforcement Officer** means the person designated by Newberry County as the person responsible for enforcement of the provisions of this Ordinance.

**County** means Newberry County.

**County Council** means Newberry County Council.

**Dwelling** means a building or portion of a building arranged or designed exclusively for human habitation and includes any outhouses and appurtenances belonging thereto or usually employed therewith.

**Garbage** means any waste from the preparation, cooking and serving of food, market refuse, and waste from the handling, storage and sale of produce and meats as well as disposal of household items.

**Habitation** means the act of inhabiting by a human for any length of time, unrelated to the owners or parties in interest acting to preserve, maintain, repair or inspect the property.

**Junk** means any materials consisting of waste, discarded or salvage matter consisting of a total of more than three cubic yards of volume regardless of whether it is to be bought, sold, exchanged, stored, baled, packed or disassembled for profit, trade or hire, and shall include any vehicle damaged do as not to comply with state or federal safety regulations, incapable of self-propulsion or partially dismantled if retained on the premises for more than 72 hours, whether for repair or not. The term junk shall also mean, but not be limited to, old or scrap copper, brass, aluminum, rope, rags, paper, trash, tires, carcasses, rubber debris, old vehicle parts, non-working major appliances, and other old ferrous or non-ferrous material.

**Junk Vehicle** (see Abandoned/Junk Vehicle)

**Lien-holder** means that person, persons, organization, or corporation that holds the property of a debtor as security or payment for a debt.

**Litter** means garbage, refuses, waste materials or any other discarded, used or unconsumed substance which is not handled as specified herein.

**Local Governing Body** means Newberry County Council

**Local Official** means the designee(s) from the County Administrator.

**Occupant** means any person who resides or is present in a house or vehicle at any given time.

**Outdoor Storage** means the accumulation or storage of disassembled, inoperable, or unlicensed vehicles, decaying animal or vegetable matter, animal or human feces, trash, rubbish, garbage, rotting lumber, packing materials, old or scrap copper, brass, aluminum, rope, rags, paper, trash, tires, carcasses, rubber debris, old vehicle parts, non-working major appliances, and other old ferrous or non-ferrous material.

**Owner** means any person, persons, organization, or corporation that owns, in whole or part, the land, structure or other property as the holder of title in fee simple or is the purchaser of the property under contract for deed.

**Premises** means any building, lot, parcel, real estate, or land or portion of land whether improved or unimproved, occupied or unoccupied, including adjacent parking.

**Public Nuisance** means any activity or failure to act that adversely affects the public and shall include, but not be limited to, any condition which poses an immediate and direct hazard to human health if left unheeded due to the existence of the condition itself or due to the immediate threat of transmission of disease through insects, animals including rodents, or other means or transmission or infection.

**Refuse** means trash, garbage, rubbish, waste papers, bottles or cans, debris, litter, oil, solvents, liquid waste, or other discarded materials.

**Structural Defect** means any physical damage to the designated load-bearing elements of the structure caused by failure of such load-bearing elements which affects the load-bearing function to the extent the structure becomes unsafe, unsanitary or unlivable.

**Structure** as defined by the latest version of the International Building Code as adopted by the State of South Carolina.

**Temporary** means anything lasting for only a limited period of time; not permanent.

**Unsafe** means if conditions exist in such dwelling or other structure which are dangerous or injurious to health or safety of the occupants of such dwelling, the occupants of neighboring dwellings or other residents of Newberry County. Such conditions may include the following without limiting the generality of the foregoing: defects increasing the hazards of fire, accidents, or other calamities.

**Unsafe Structure** means any building or structure which has been determined to be unsafe by the Code Enforcement Officer or Building Official.

**Vegetation** means any object of natural growth.

**Vehicle** includes any machine designed or intended to travel over land or water by self-propulsion or while attached to a self-propelled vehicle and includes boat, boat trailer, travel trailer, storage trailer, recreational vehicle, etc.

### **§ 157.003 PUBLIC NUISANCES IDENTIFIED.**

The creation or maintenance of a public nuisance is prohibited. The following are hereby expressly declared to be public nuisances:

- A. Abandoned or junk vehicles where five or more such vehicles are stored on an individual property. All such vehicles shall be screened from view of the primary public road right-of-way and adjacent property lines by an opaque screen (See §153.183 – Screening). Abandoned or junk vehicles shall not be stored on any multi-family residential property. Any abandoned or junk vehicle storage determined to be a primary use of the property shall comply with all regulations provided in §153.146 – Salvage, Scrap and Recycling Operations.
- B. Garbage, trash or refuse, except garbage, trash or refuse stored in authorized sealed receptacles specifically designated for trash collection, in an enclosed building or properly contained in a closed, insect and rodent proof container designed for such purpose, except for the immediate time preceding pick up by a refuse hauler.
- C. Accumulation of carcasses of animals, birds or fish by failing to bury or otherwise dispose of in a sanitary manner within 24 hours after death. This provision shall not apply if the animals, birds, or fish are intended for human consumption.
- D. Accumulation of rubbish as to become dangerous or injurious to the health and safety of any individual or to the public.
- E. Accumulation of junk matter consisting of a total of more than three cubic yards in volume.
- F. Noxious and excessive accumulation of decaying animal or vegetable matter, animal feces, trash, rubbish, litter, debris, rotting, packing materials, scrap metal, pallets fuel storage containers, tools, tires and wheels, farm implements, furnaces, home appliances, furniture, plumbing fixtures, construction materials, metal, pipes, glass,

- machinery, wood, brick, cement block, or any other substances in which flies, mosquitoes, or other disease carrying insects, rodents or other vermin can harbor.
- G. Any noxious and excessive accumulations of materials or any activity that causes an emission of odorous gases or other odorous matter in such quantities as to be offensive at the property line.
  - H. Dead, damaged, diseased trees or limbs of trees that create a hazard by creating a potential for falling onto neighboring public rights-of-way.
  - I. Weeds or other rank growths of vegetation upon private or public property, and all other vegetation at any stage of maturity which:
    - 1. Regardless of height, harbors, conceals, or invites rodents, pests, or vermin deposits of refuse;
    - 2. Gives off noxious odors and/or is poisonous; or
    - 3. Constitutes a fire, traffic, or safety hazard.
  - J. Improper use of indoor or non-weather proofed furniture and appliances, dilapidated or unusable furniture, or upholstered furniture manufactured for indoor use including those which:
    - 1. Harbors, conceals or invites rodents, pests, or vermin refuse deposits;
    - 2. Gives off noxious odors; or
    - 3. Constitutes a fire or other safety hazard.
  - K. Manufactured items intended for indoor use including but not limited to bedding, cardboard, glass, home goods, building materials, etc.
  - L. Lumber, building supplies and plumbing fixtures, including used and discarded building materials, not related to an active permit and not neatly stacked.
  - M. Any other item which is either wholly or partially rusted, wrecked, junked, dismantled, discarded, or inoperative, not including agricultural implements or items used for agricultural purposes.
  - N. All pools of stagnant water or vessels holding standing water in which mosquitoes can breed excluding required retention ponds.
  - O. Swimming pools which are either:
    - 1. Empty, excluding such pools that are completely and effectively covered; or

2. Contain liquids and/or debris which are not bacteriological, chemically or physically safe for swimming or other intended uses.
- P. All structures determined to be unsafe are hereby classified as public nuisances and shall be abated by alteration, repair, rehabilitation, demolition or removal in accordance with the procedures specified herein. Unsafe dwellings are hereby identified as structures where:
1. It is determined by the Code Enforcement Officer that a structure is in a state of decay, damaged by fire, earthquake, wind or flood, inadequate maintenance, dilapidation, abandonment or partial ruin to such an extent that the structure is a hazard to the health, safety, or welfare of the general public or adjoining property;
  2. Defects in the structure increase the hazard risk of fire, accidents or calamities;
  3. The structure contains filth or contamination;
  4. There is a lack of ventilation, light, sanitary or heating facilities or other essential equipment required by codes adopted by Newberry County;
  5. The structure provides a harbor for rodents, pests, stray animals, or persons engaged in controlled substance or sale;
  6. A structure has been abandoned so as to make such structure an attractive nuisance or hazard to the public; or
  7. Other conditions rendering such dwellings as unsafe or unsanitary, dangerous or detrimental to the health, safety, or morals or otherwise detrimental to the welfare of the residents.

The enumeration of specific nuisances in this Ordinance shall not be deemed to make lawful any other act of condition declared to be a nuisance by any other County ordinance, state or federal law, or court decision.

#### **§ 157.004 GENERAL REQUIREMENTS.**

- A. Requirements for Occupied or Unoccupied Property. It is unlawful for any person, firm, or corporation to maintain or to permit to be maintained any premises including vacant lots or land upon which grass, weeds, undergrowth, trash, garbage, stagnant water, or other matter detrimental to good health and public sanitation which is permitted or caused to accumulate in any manner that is or may become a nuisance causing injury or sickness to the health or welfare of residents or the public in the vicinity of, or causing injury to, any neighboring property.

- B. Requirements for Residential Dwellings. The owner of the property shall maintain the dwelling's interior and exterior in compliance with the requirements of the Building Code that was adopted at the time of the completion of the dwelling. If any repairs or updates are needed and require a permit, the work must be completed to meet the current adopted building code. The owner shall be responsible for maintaining all inhabited and vacant dwellings in a clean, safe, secure, and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health and/or safety. This includes, but is not limited to, holes in roofs, openings in windows, walls or doors, unsecured structures, and foundational and structural concerns.
- C. Requirements for Owners. Regardless of who created the public nuisance, the property owner and/or the occupant is responsible for taking all corrective actions to remedy the situation.
- D. Requirements for Exterior Structures. For the purposes of this section, these standards apply to any portion of the property that is not within the interior of a dwelling or other enclosed structure. Unless completely enclosed, porches, balconies, decks, carports, or other similar structures shall be included within this standard. Temporary materials cannot be used to enclose a structure.
- E. Requirements for Other Structures. Pools, walls, fences and other accessory structures shall be considered a structure.

#### **§ 157.005 EXCEPTIONS.**

- A. This section shall not apply to structures that are actively used for legal agricultural purposes or forestry operations, including but not limited to, barns, sheds, and storage buildings, that are not utilized as a dwelling for human habitation are exempt from these standards. No accumulation of waste, debris, or junk defined in this ordinance is allowed in the setback areas adjacent to a residence as defined in the Newberry County Zoning Ordinance.
- B. This section shall not apply to a business that is a permitted use or legally nonconforming use as allowed by the Newberry County Zoning Ordinance where such activities listed above are a normal and customary associated activity with that business. In the case of outside storage in conjunction with a business, the materials in question must be screened from the public rights-of-way or any adjacent residential property.
- C. Structures related to or designed for agricultural and forestry operations, including but not limited to barns, sheds, and storage buildings, that are not utilized as a dwelling for human habitation are exempt from these standards.

**§ 157.006 AUTHORITY.**

Any local official designated by the County Administrator is authorized to determine that a structure is unfit for human habitation if found that conditions exist where the structure is dangerous or injurious to the health and safety of the occupants of such structure or the occupants of neighboring structures. Such conditions may include, but are not limited to, defects therein increasing the hazards of fire, accident or other calamities; dilapidation; disrepair; structural defects; uncleanliness; and other standards described herein.

Following a determination that a structure is unfit for human habitation, said official shall inform the Director of Planning and Development Services and the County Administrator, prior to issuing notice of violation.

An aggrieved property owner or occupant may enter into a correction agreement process as outlined in §157.015 or request review of the matter by the Newberry County Building, Fire and Nuisance Codes Board of Appeals in accordance with §157.011.

***PROCEDURE***

**§ 157.007 NUISANCE IDENTIFICATION.**

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written or verbal complaint. Such complaint stating fully the causes and basis thereof, shall be filed with the Code Enforcement Officer. The Code Enforcement Officer shall record the complaint properly, investigate promptly, and take action thereon as provided by this Ordinance. To protect the privacy of individuals, such complaints can be anonymous.

**§ 157.008 NOTIFICATION.**

Upon investigating a complaint of possible violation, and determination of violation of this Ordinance, the Code Enforcement Officer shall serve a notice of violation. Notices of violations or orders hereunder shall be deemed to be properly served to the owner/occupant if a copy thereof is:

- A. Delivered personally;
- B. Sent by first class mail addressed to the last known address whose address is maintained by Newberry County Tax Assessor; or
- C. A copy thereof posted in a conspicuous place on the lot affected or on or about the structure affected by such notice.

For purposes of notice of violation to properties with more than one owner, notice shall be made to the owner of record whose name and address is maintained by the Newberry County Tax Assessor. Co-owners jointly and severally are liable for the upkeep and maintenance of the property. Such notices of violations shall:

- A. Be in writing;
- B. Include property location by street address and Tax Map Number for the parcel;
- C. Date of inspection where the violation was determined;
- D. Specific orders for abatement or remediation of the violation; and
- E. A date for completion of the abatement not to exceed seven calendar days following notification.

The failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this article.

The Building Official or Code Enforcement Officer shall post at each entrance of the designated unsafe structure a notice to read: "DANGER – THIS BUILDING IS DECLARED UNSAFE FOR HUMAN OCCUPANCY." Such notice shall remain posted until the required repairs, demolition or removal is completed. Such notice shall not be removed without written permission of the Building Official or Code Enforcement Officer except for the purpose of making required repairs or demolition of the building.

Notwithstanding any other provision of this article, any building or structure that has been determined to be an immediate danger to life, health, safety or property shall be abated immediately in order to protect life, health, safety or property. The Building Official or Code Enforcement Officer may take any steps that are necessary to make the structure safe including, but not limited to, demolition of the structure.

#### **§ 157.009 EXTENSION PROCESS.**

An extension of time to complete abatement may be granted if justified. Such a request must be in writing and be received by the Code Enforcement Officer within seven calendar days following notification. The request must contain the reasons for which the extension is necessary and contain the specific time requested.

#### **§ 157.010 TIMEFRAME FOR ABATEMENT.**

All required work shall be completed within such period of time as the Code Enforcement Officer shall determine to be reasonable to accomplish the work, as stated in the notice. If a building or demolition permit is required, such permit shall be obtained by the owner or their designee within 30 days of written notice.

### **§ 157.011 APPEALS.**

An appeal may be requested by the owner where a demolition is required. Appeals may be made to the Newberry County Building, Fire and Nuisance Codes Board of Appeals by such person. The Newberry County Building, Fire and Nuisance Codes Board of Appeals shall not levy fines or penalties on the property or owner/occupant or amend the standards of this ordinance.

### **§ 157.012 PENALTIES.**

Any person deemed to be in violation of this Ordinance after having received a nuisance notification with an established timeframe for abatement shall be issued a citation charging such person(s) with a misdemeanor. A guilty plea or judgement by the Newberry County Magistrate's Office shall be punishable by a fine of no more than \$500 unless otherwise noted in this ordinance. Each day such violation continues after due notice to discontinue such violations shall be considered a separate offense. In addition, the Code Enforcement Officer or other appropriate administrative official, may in accord with the provisions of Section 56-7-80 of the South Carolina Code of Laws 1976, as amended, issue an ordinance summons, or institute injunction, mandamus, or take any other appropriate actions or proceedings required to enforce this Ordinance.

### **§ 157.013 PUBLIC ABATEMENT PROCESS.**

In the event that any owner or occupant of any lot or premises upon which there is a condition described in this ordinance fails to remedy the condition within the agreed upon timeframe, the County may, in its own discretion, do such work and make improvements, or contract with an authorized third-party, as are necessary to correct, remedy, remove such condition or cause the same to be done, paid therefor and charge the expenses incurred thereby to any and all owners of such lot, in joint and severable liability for any and all expenses incurred. Such work shall not relieve such person from prosecution or failure to comply with such notice. Such expenses shall be assessed against the lot or real estate upon which the work was done, or the improvements made through a lien on property which shall be added to and collected in the same manner as property taxes.

### **§ 157.014 RECURRENT VIOLATIONS.**

Any violation of any provision of this Code or of any ordinance for which proper notice of violation has been provided pursuant to the applicable code section or ordinance which reoccurs, at the same location while under the same ownership, within 12 months of the previous notice date, shall constitute a repeat violation. The occurrence of a repeat violation shall waive the county's requirement to provide a notice of violation and an abatement period.

### **§ 157.015 CORRECTION AGREEMENT.**

Upon determination that an unsafe structure or other nuisance exists and notice of violation is provided to the property owner, such owner(s) may enter into a correction agreement with the County. Such correction agreement shall identify such person(s) responsible for the property and their agreement to promptly take all reasonable actions, which shall be set forth in the agreement, to mitigate the nuisance within a specified time and according to specified conditions. A correction agreement may be utilized at any time during the process as agreed to by the County, except prior to issuance of an ordinance summons to appear. If the nuisance is not abated within the parameters of the correction agreement, a citation shall be issued as outlined in §157.012.

### **§ 157.016. CONFLICT/SEVERABILITY.**

If any other provision of any other chapter of these ordinances is clearly in conflict with this chapter, this chapter shall apply. Whenever the provisions of any other statute require more restrictive standards than are required by this Ordinance, the provisions of such statute shall govern. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional or unlawful by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained; or any structure or land is used in violation of this Ordinance, or regulations in furtherance hereof, the County Administrator, County Attorney, Zoning Administrator, Building Official, or any person aggrieved may, in addition to other remedies provided by law, institute injunction, abatement, or any other appropriate action or proceeding to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration, maintenance or use. Such violations shall constitute a misdemeanor. The owner of any building, structure, premise, or part thereof, and any occupant, architect, surveyor, builder, engineer, contractor, agent, or other person, who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided. Nothing in this ordinance shall prevent the County from taking such other lawful action as is necessary to prevent or remedy any violation.

**NEWBERRY COUNTY COUNCIL**

**(SEAL)**

**BY:** \_\_\_\_\_  
**Todd Johnson, Chairman**

**ATTEST:**

\_\_\_\_\_  
**Andrew Wigger, Clerk to Council**

**Approved as to form:**

\_\_\_\_\_  
**Joanie Winters, Interim County Attorney**

\_\_\_\_\_  
**Jeff Shacker, County Administrator**

**1<sup>st</sup> Reading: November 1, 2023**  
**2<sup>nd</sup> Reading: November 15, 2023**  
**Public Hearing: November 15, 2023**  
**3<sup>rd</sup> Reading: December 6, 2023**