



**CITY OF BEAUFORT**  
1911 BOUNDARY STREET  
BEAUFORT MUNICIPAL COMPLEX  
BEAUFORT, SOUTH CAROLINA 29902  
(843) 525-7070  
**CITY COUNCIL REGULAR MEETING AGENDA**  
**September 25, 2018**

**NOTE: IF YOU HAVE SPECIAL NEEDS DUE TO A PHYSICAL CHALLENGE, PLEASE CALL IVETTE BURGESS 525-7070 FOR ADDITIONAL INFORMATION**

**STATEMENT OF MEDIA NOTIFICATION**

"In accordance with South Carolina Code of Laws, 1976, Section 30-4-80(d), as amended, all local media was duly notified of the time, date, place and agenda of this meeting."

**REGULAR MEETING - Council Chambers, 2nd Floor - 7:00 PM**

**I. CALL TO ORDER**

A. Billy Keyserling, Mayor

**II. INVOCATION AND PLEDGE OF ALLEGIANCE**

A. Mike Mcfee, Mayor Pro Tem

**III. PROCLAMATIONS/COMMENDATIONS/RECOGNITIONS**

**IV. PUBLIC COMMENT**

**V. PUBLIC HEARING**

**VI. MINUTES**

A. Worksession and Regular Meeting August 28, 2018

**VII. OLD BUSINESS**

**VIII. NEW BUSINESS**

- A. Authorization to allow City Manager to execute contract for Arsenal Re-Roofing
- B. Authorization to allow City Manager to enter into Memorandum of Agreement (MOA) for Regional Stormwater Project
- C. Appointments to Boards and Commissions

**IX. REPORTS**

- City Manager's Report
- Mayor Report
- Reports by Council Members

**X. ADJOURN**



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## CITY OF BEAUFORT

### DEPARTMENT REQUEST FOR CITY COUNCIL AGENDA ITEM

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**TO:** CITY COUNCIL **DATE:** 9/20/2018  
**FROM:**  
**AGENDA ITEM**  
**TITLE:** Worksession and Regular Meeting August 28, 2018  
**MEETING**  
**DATE:** 9/25/2018  
**DEPARTMENT:** City Clerk

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*BACKGROUND INFORMATION:*

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*PLACED ON AGENDA FOR:*

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*REMARKS:*

**ATTACHMENTS:**

Description	Type	Upload Date
Minutes	Backup Material	9/20/2018

A work session of Beaufort City Council was held on August 28, 2018 at 4:00 p.m. in the Beaufort Municipal Complex, 1901 Boundary Street. In attendance were Mayor Billy Keyserling, Councilwoman Nan Sutton, Councilmen Stephen Murray, Phil Cromer, and Mike McFee, and Bill Prokop, city manager.

In accordance with the South Carolina Code of Laws, 1976, Section 30-4-80(d) as amended, all local media were duly notified of the time, date, place, and agenda of this meeting.

### **CALL TO ORDER**

Mayor Keyserling called the work session to order at 4:02 p.m. [SEP]

### **EXECUTIVE SESSION**

Pursuant to Title 30, Chapter 4, and Section 70 (a) (2) and (1) of the South Carolina Code of Law, **Councilman Cromer made a motion, seconded by Councilman McFee, to enter into Executive Session for receipt of legal advice about stormwater contracts, an update on other legal matters, and discussion of board and commission applicants. The motion passed unanimously.**

**Councilman Murray made a motion, second by Councilman McFee, to adjourn the Executive Session and resume the council work session. The motion passed unanimously.**

### **WATERFRONT PARK RECYCLING PROPOSAL**

**Jennifer Sharp**, the environmental team leader for Beaufort Indivisible, [SEP] said the single-use bag ban was a first step; it starts November 1. Indivisible has donated 1,500 reusable bags to various groups and individuals. They have “an interest in all things environmental,” she said, and recycling is a next step. The group feels Waterfront Park is the perfect place to try a recycling experiment, Ms. Sharp said.

Since the first recycling proposal was made, China now refuses to take plastic because of contamination, so Ms. Sharp did research and found the “Your Bottle Means Jobs” program, which operates in North Carolina and South Carolina and takes #1 and #2 plastics that are turned into pellets and then into fabric. Ms. Sharp said only 20% of the bottles in this program come from the Carolinas, so this would help them to meet their needs and create jobs. If every household recycles 2 more bottles, it would create 300 jobs, she said.

**Linda Roper** has it in her budget to add trash bins to Waterfront Park, Ms. Sharp said, and Indivisible would like to turn six of them into recycling bins and keep them there year-round.

November 15 is America Recycles Day, so Ms. Sharp said that would be a good day to kick off this recycling effort. Ms. Roper said she thinks this is a great program, but “it

needs to be quantified.” There are bins that will weigh what’s collected, she said. She would like to do other kinds of recycling as well, not just plastic.

Ms. Roper said she would like to try this program. Cardboard and plastic bottles are the “best bets” for recycling, but there would need to be separate bins for them. Mayor Keyserling said at Water Festival, the fire department offered a drink ticket for turning in aluminum cans. He asked if there are metrics from Water Festival about collection.

Ms. Roper said they just have trash bins now in the park. There should be promotion and education components, and it’s important to “get people excited about the [recycling] program.”

Ms. Sharp said the recycling and trash bins need to be “nearby.” The promotion needs to target the 60% of people who are “sometimes recyclers,” she said.

Mayor Keyserling said he sees no reason not to try this, as long as Ms. Roper’s department handles the logistics.

Councilman McFee asked who would do the collection. Ms. Roper said Waste Pro could do it; it’s part of their contract to do recycling anywhere in the city. She has discussed ways to do it with them. The Greenery would have to change some of its processes, she said.

Councilman Murray said Waste Pro’s collection is “all single-stream.” Ms. Roper said if they do something with the Your Bottle Means Jobs program, they need to collect “nothing but bottles” for it; the other collection could be any recyclables. She said they could work out how they could get the bottles to Ms. Sharp.

Ms. Sharp said she has contacted Your Bottle Means Jobs, and they are contacting Sunoco with the hope that they will be able to work something out. Indivisible also wants recycled cans to go to the fire department, which collects them for the children’s burn unit. She feels they could reach more people by letting them know that recycling bottles mean jobs.

Ms. Sharp said Your Bottle Means Jobs has two programs; one takes “everything,” including plastic bottle tops, and one does not.

Mayor Keyserling said the city manager and the staff can make this decision and implement it. Councilman Murray said they need to have enough bins to collect all types of waste, and he thinks this is a great program.

**DOWNTOWN BEAUFORT MERCHANTS ASSOCIATION (DBMA) REQUEST FOR  
HOSPITALITY FUNDS FOR FIRST FRIDAYS AND THE ASSOCIATION** <sup>[L]</sup><sub>[SEP]</sub>

**Eric Thibault** discussed what DBMA is and who is in it. They have exceeded membership

projections and currently have 35 stakeholders, he said. They are now a 501c3 organization. Mr. Thibault told Councilman Murray that membership dues are \$120 per business per year.

Mr. Thibault said First Fridays in downtown Beaufort have been very successful and are bringing more people downtown for the event and then throughout the month. He discussed the value of First Fridays in bringing growth to downtown.

Other events that DBMA is a part of include Small Business Saturday, the bi-annual sidewalk sale, and the bi-annual ArtWalks, Mr. Thibault said. He described these events and said the results are “all positive,” and there will be another sidewalk sale in February. The ArtWalk in April coincided with First Friday, he said, and the businesses all had “amazing results,” as did the art galleries, with up to 3,000 people coming downtown for the events.

All stakeholders are open additional hours for First Fridays and most provide free items for the events, Mr. Thibault said. The DBMA is also working with Park Beaufort on a parking token program, which is very popular and “vital for us downtown,” he said.

Mr. Thibault said the Downtown Merchants Association members have monthly meetings, where there have been motivational speakers, as well as the fire chief and a representative from the police department. The meetings are held at different businesses almost every month, he said, which helps all of the members to see what those merchants offer, which can help them to make referrals. There are also weekly First Friday meetings, which Ms. Roper and **Rhonda Carey** attend.

Mr. Thibault discussed “downtown as a destination.” Online shopping is a threat to “all small-town businesses,” he said, and the DBMA and City of Beaufort partnership allows the support of “a variety of unique and independent businesses that attract more customers.” First Fridays are “now an anticipated destination,” Mr. Thibault said.

The DBMA’s biggest expenditure has been its advertising campaign, Mr. Thibault said. Entertainment expenses for First Fridays were initially higher than expected, but the budget has extended past the original target by 2 months, he said. The radio ads are vital, and they have been able to negotiate favorable rates through member co-op advertising. The DBMA has also gotten stories and ads in *Lowcountry Weekly* and other newspapers, Mr. Thibault said. Printing monthly posters and fliers to give out to customers is another expense, he said.

Mr. Thibault described various entertainers that they have had at First Fridays and promotional items and prizes to go with the themes of each event.

Councilman Murray asked their total budget last year. Mr. Thibault said the total year-to-date for income was \$15,850, and total expenses were \$15,248. He said \$23,400 was

the approximate annual budget last year.

The average member spends \$150 on food wine and beer for First Fridays, Mr. Thibault said. They also pay annual dues and monthly fees for radio and print ad buys, he said. The merchants contribute \$72,000 a year toward events, as well as spending money on additional staff time to stay open for First Fridays, he said.

All member stakeholders are reporting better numbers on First Fridays, Mr. Thibault said, and the City of Beaufort will experience a return on its investment through increased sales and hospitality tax revenue and increased parking and business license revenue. There are now fewer empty storefronts downtown, he said, than in any time in recent memory.

The DBMA supports and helps with Shrimp Festival, fundraising for the free shuttle, the downtown Halloween party and Night on the Town, Mr. Thibault said. For Shrimp Festival, the DBMA members will offer advance ticket and t-shirt sales, he said, and unused tickets from the festival can be redeemed for merchandise.

The goal is to increase DBMA membership to 50 by June 1, 2019, Mr. Thibault said, and to regularly encompass Port Republic Street in First Friday events by the first quarter of 2019.

Mr. Thibault showed a list of the current DBMA members and its board of directors.

Mr. Thibault presented the budget for the DBMA for September 2018 to August 2019. The total budget request is for \$22,100. Mr. Prokop said this is the budget line for “hospitality.”

Councilman Murray thanked the merchants for what they’ve done and their level of participation. He said he thinks that there could be “better diversity” in what the shops offer, to offer people an alternative to shopping online. Also, restaurants do the majority of their business at night, and studies show sales improve if stores stay open to take advantage of those customers, so he encouraged the merchants to try different things to improve their sales, such as closing one day a week and then moving their employees to work later hours on the days the business is open.

Closing Bay Street for First Fridays has been “awesome,” Councilman Murray said. He thinks there should be free parking for the 4 times a year that Bay Street is closed for First Fridays. Free parking for those 2 hours would be a great gesture to locals, he said. Mr. Thibault said when the street is closed, the parking meters aren’t used anyway, so he thinks free parking would not be a big revenue loss to the city.

#### **REDEVELOPMENT COMMISSION (RDC) ANNUAL REPORT** SEP

**Jon Verity**, RDC chairman, presented the annual report. Economic development has

been a big success this year, he said; he described some of the accomplishments, programs, and events at Beaufort Digital Corridor.

In Commerce Park, a new company has been added, and a number of improvements have been made to the park, Mr. Verity said. Councilman Murray said Dust Solutions was going to build a facility in the park, but they were not able to; however, they are moving into another local location in Industrial Village. A Canadian company that was in town in March was “sold” on Commerce Park, he said, but there was not a space available within the time they needed it, so they have committed to locating in Colleton County, where they will bring 112 jobs. The Beaufort County Economic Development Corporation has put out an RFP out for a spec building in Commerce Park, Councilman Murray said.

Mr. Verity said 102 new businesses have opened in Beaufort in 2018. “Downtown has been a big success,” he said.

In the Waterfront Park and marina, the day dock has been a “huge success,” Mr. Verity said. He reviewed other plans for the area, including new management of the marina beginning next summer.

On infill initiatives, there has been new construction, renovation and cleanup, and incentives offered on Duke, Washington, and Greene Streets, Mr. Verity said, and he reviewed construction and renovation projects that have taken place there or are planned. People are engaged, he said, and the programs have been well-received by those who live there; everyone involved feels it is “a worthwhile cause.”

Mr. Prokop said Ms. Carey has a contact at Lowes, which sent 10 people to fix up a house with their materials as part of the company’s community program.

Another important initiative was city properties that have been reused to create housing, Mr. Verity said.

Boundary Street is complete, and “it’s beautiful,” Mr. Verity said, as well as being under budget and finished early. He expects more construction and redevelopment on buildings on Boundary Street in the coming years.

In residential development, 43 permits were issued for new residential construction, as well as a permit for multifamily housing for 96 students in 2 buildings, Mr. Verity said. Other residential development is to take place on more than 20 acres at Whitehall with 80 to 100 residential units (unless the proposed park changes that) and a 100-unit senior living complex, he said.

Seven new construction commercial permits were issued in FY 2018, and the Beaufort Code update was completed and approved.

There being no further business to come before council, the work session was adjourned at 7:08 p.m.

DRAFT



A regular session of Beaufort City Council was held on August 28, 2018 at 7:00 p.m. in the Beaufort Municipal Complex, 1901 Boundary Street. In attendance were Mayor Billy Keyserling, Councilwoman Nan Sutton, Councilmen Stephen Murray, Phil Cromer, and Mike McFee, and Bill Prokop, city manager.

In accordance with the South Carolina Code of Laws, 1976, Section 30-4-80(d) as amended, all local media were duly notified of the time, date, place, and agenda of this meeting.

#### **CALL TO ORDER**

Mayor Keyserling called the regular council meeting to order at 7:15 p.m.

#### **INVOCATION AND PLEDGE OF ALLEGIANCE**

Councilman McFee led the invocation and the Pledge of Allegiance.

#### **PUBLIC COMMENT**

**Ed Duryea** said he works for Agape Senior. The Agape Foundation has received a grant for Northern Beaufort County to provide for the improvement of advanced care planning and to get greater participation in dealing with the documents that are part of end-of life planning. The grant will cover a 3-part program, he said: a partnership with Beaufort Memorial Hospital; going out to make presentations to groups, and a repository for advanced care plans, so they can be accessed and made readily available when needed.

Representatives of Agape Senior would be glad to come to churches and other community organizations, Mr. Duryea said, to make presentations about facts that will help people make important end-of-life decisions. Mayor Keyserling suggested that the City of Beaufort has a meeting of neighborhood associations every month, which Mr. Duryea could attend to speak about this program.

#### **PUBLIC HEARING: ORDINANCE REZONING A PORTION OF A PARCEL OF PROPERTY LOCATED AT 1529 SALEM ROAD FROM T4-NEIGHBORHOOD (N) DISTRICT TO T5-URBAN CORRIDOR (UC) DISTRICT**

**Mayor Keyserling opened this public hearing. Libby Anderson** said **Vimal Desai** is the applicant. The property is just south of the Spanish Moss Trail at Robert Smalls Parkway, she said, and the lot is a little more than 4 acres in area. She showed existing land uses in the area.

The property is currently zoned T4-N, and a portion of it is proposed to be rezoned to T5-UC, which is “an urban-type zoning designation,” Ms. Anderson said. She reviewed the allowed uses in T5-UC. The lot was Highway Commercial under the UDO, she said, but it was downzoned to T4-N; the shopping center on Salem Road was recently rezoned T5-UC.

Ms. Anderson said the property is “basically a large field” in the interior. Water and sewer is available to the property, she said. Standard public notice of this public hearing was made. The MPC considered the rezoning request and recommended approval of the proposed rezoning. It also recommended that a 20’ buffer be retained between the rear of the lot and the residential development, she said.

Councilman Cromer asked about the buffer, and Ms. Anderson said the minimum requirement is screening at 90% opacity.

**Nicholas Cassidy** is an architect and a new resident at Live Oaks at Battery Creek. He asked who is responsible for design review. Mayor Keyserling said the city has an appointed Design Review Board. Mr. Cassidy said he’s concerned about the hotel because he has just purchased a home in the neighborhood. He asked about the opportunities for the public to participate in the process of this application. Mayor Keyserling told him to ask Ms. Anderson to include him in notices of future meetings about the project.

Mr. Cassidy said there has been discussion about installing vehicle gates at the entrance to his neighborhood for security purposes, which the hotel could install. He asked in what venue there could be a discussion of vehicular control for the neighborhood because there will be more traffic there if a hotel is built at this location. Mayor Keyserling said the city discourages gates, but Mr. Cassidy could talk to Ms. Anderson about options, including further readings of this application.

Ms. Anderson said, as with any rezoning, applicants may have an idea of what they would like to do when their property is rezoned, but once it’s rezoned, any use allowed in the new zoning could happen. The hotel “might not come to fruition,” she said, if the property owner decides to do something different. She added that smaller projects – under 10,00 square feet – are reviewed at the staff level.

Councilman Murray encouraged Mr. Cassidy to talk to Ms. Anderson about participating on one of the city’s boards or commissions. **There being no further public comment, Mayor Keyserling closed this public hearing.**

#### **MINUTES**

**Councilman Murray made a motion, second by Councilman McFee, to approve the minutes of council’s work session and regular meeting on July 10, 2018.** Councilman Cromer said on page 2, in the first paragraph, the word “important” should be “importance.” **The motion to approve the minutes as amended passed unanimously.**

#### **CO-SPONSORSHIP REQUEST FOR USE OF WATERFRONT PARK FROM DONNIE BEER TO HOST ANNUAL EVENT, REMEMBERING 9/11**

**Councilman Murray made a motion, second by Councilman McFee, to approve the request for the September 9, 2018 event.** Ms. Roper said Ms. Beer organizes this event

every year. **The motion passed unanimously.**

**CO-SPONSORSHIP REQUEST FOR USE OF WATERFRONT PARK FROM BORN TO READ TO HOST YOGA UNDER THE STARS EVENT**

**Councilman McFee made a motion, second by Councilman Murray, to approve the request for the September 21, 2018 event.** Ms. Carey said this is the second annual Yoga Under the Stars; it is a collaboration of Born to Read, the drum circle, and yoga studios. It will take place in the evening, she said.

**Janie Ephland**, executive director of Born to Read, described what the organization does and said the event would take place on the International Day of Peace. **The motion passed unanimously.**

Mayor Keyserling introduced various members of the public who were in attendance at the meeting.

**REQUEST TO HOST FALL ART WALK EVENT, TO INCLUDE STREET CLOSURES, WAIVER OF OPEN CONTAINER, AND CO-SPONSORSHIP FOR POLICE, FIRE AND PUBLIC WORKS SERVICES** SEP

**Councilman Cromer made a motion, second by Councilman McFee, to approve the requests for the October 27, 2018 event.** Ms. Roper said the Cultural District Advisory Board (CDAB) is now organizing ArtWalk. As part of it, there will be a sidewalk chalking contest on Port Republic Street, so they are requesting a portion of it be closed from 8 a.m. to 8 p.m., as well as a portion of West Street. ArtWalk is from 6 p.m. to 8 p.m., she said. More than a dozen galleries are participating, so they are requesting an open container waiver for plastic cups of beer and wine that will be not sold but given away by the galleries.

**Bonnie Hargrove** discussed “Chalk the Streets,” which she said CDAB hopes will be an annual event. CDAB is working with all of the galleries on ArtWalk, she said, and there will be a lot of other activity downtown on that date. Ms. Roper said the Halloween party would be in Waterfront Park from 10 a.m. to 2 p.m. that day. **The motion passed unanimously.**

**REQUEST FROM CHILD ABUSE PREVENTION ASSOCIATION (CAPA) TO HOST ANNUAL GHOST TOURS EVENT DOWNTOWN IN OCTOBER AND TO USE TWO PARKING SPACES IN THE MARINA PARKING LOT FOR THE DURATION OF THE EVENT** SEP

**Councilman Murray made a motion, second by Councilman Cromer, to approve the requests for the event.** Ms. Roper said this is an annual event that the Exchange Club puts on to raise funds for CAPA, and the request is the same as in previous years. The tour routes will also be the same as in previous years.

Councilman Murray asked city staff to ensure the irrigation in Cannon Park is turned off. **Jessie Chapman** said anyone interested in volunteering can contact her at

Jessica@CAPABeaufort.org. **The motion passed unanimously.**

**CO-SPONSORSHIP REQUEST FOR USE OF WATERFRONT PARK FROM BEAUFORT COUNTY VETERANS AFFAIRS OFFICE FOR VETERANS DAY CELEBRATION EVENT**

**Councilman McFee made a motion, second by Councilman Murray, to approve the requests for the November 11, 2018 event.** Ms. Carey said this is an annual event, but instead of the traditional parade, they will sponsor a family event in Waterfront Park that is open to the public. **Carl Wedler** said for 15 to 20 years there has been a Veterans Day parade and a ceremony at the National Cemetery, but they have received feedback that the cemetery is not a proper venue for the celebration of veterans. The Marine Corps Band will play at 1:00 p.m., he said, and the event will be open to anyone who wants “to celebrate vets.”

Councilman McFee asked about the application, which says there is a ceremony beginning at 11 a.m., and Mr. Wedler said that has changed. **The motion passed unanimously.**

**REQUEST FROM THE CITY OF BEAUFORT TO HOST THE ANNUAL SHRIMP FESTIVAL IN WATERFRONT PARK, TO ALLOW ALCOHOL SALES AND STREET CLOSURES, AND TO ISSUE COMPLIMENTARY PARKING PASSES** <sup>[11 SEP]</sup>

**Councilman Murray made a motion, second by Councilman McFee, to approve the requests for the event on October 5 and 6, 2018.** Ms. Carey said they are seeking permission for the following: to host the event; to sell beer and wine and to have open containers of alcohol in Waterfront Park during the hours of the event; to host a 5K run on Saturday morning, for which street closures would be needed; to close the street from Waterfront Park up to Charles Street Extension for festival load-in, and to host the arts and crafts market, which is traditional for Shrimp Festival. She said the city would purchase complimentary parking passes for sponsors at a certain level (there will probably be about 6). The arts and crafts vendors have asked to extend their hours for the duration of the festival (until 10 p.m. on Friday and 11 a.m. to 8 p.m. on Saturday), Ms. Carey said. **The motion passed unanimously.**

**STREET CLOSURE REQUEST FROM THE BAPTIST CHURCH OF BEAUFORT FOR HISTORICAL MARKER EVENT**

**Councilman Murray made a motion, second by Councilman McFee, to approve the request for the September 9, 2018 event.** **Ivette Burgess** said staff and the police department support the request. **The motion passed unanimously.**

**ORDINANCE REZONING A PORTION OF A PARCEL PROPERTY AT 1529 SALEM ROAD FROM T4-NEIGHBORHOOD DISTRICT TO T5-URBAN CORRIDOR DISTRICT**

**Councilman McFee made a motion, second by Councilman Murray, to approve the ordinance on first reading. The motion passed unanimously.**

**ORDINANCE REVISING THE FLOOD DAMAGE PREVENTION ORDINANCE TO ELIMINATE THE FIVE-YEAR CUMULATIVE CLAUSE**

**Councilman McFee made a motion, second by Councilman Cromer, to approve the ordinance on first reading.** Mr. Prokop said the current flood ordinance contains a 5-year cumulative clause, which he explained.

Mr. Prokop is asking council to eliminate the cumulative clause, which Hilton Head and Bluffton do not have. **Bruce Skipper** showed the city's current flood plain; Mossy Oaks has been "hit the worst" in the city, both by flooding and by the assessor's devaluing the structures there.

Mr. Skipper said under the cumulative clause of the ordinance, structures that are considered substantial damage/improvement properties would be required to be brought into full compliance with the current flood ordinance. One of the options could be to elevate the structures in the flood plain by 3' to 4', he said; another option could be to remove those structures in the flood zone and redevelop the property into a park.

Mr. Prokop said the city had received an email from a resident with concerns about this type of redevelopment in Mossy Oaks, but because the city received a Community Development Block Grant (CDBG) for the Mossy Oaks area, a condition of the grant is that neither city staff nor council is "allowed to talk to the individual property owners about that. All that has to go through the CDBG people or the LOCOG (Lowcountry Council of Governments) to have an individual discussion" with residents to whom it would apply.

**Mike Sutton** said he supports this ordinance change because this is "an unforeseen consequence of living in the Lowcountry." Beaufort as a whole is in the flood plain, he said, and many houses are below the 13' sea level. This could be open park space if those residents were bought out, but "if you don't have a tax base, you don't have a city." As a builder, if Mr. Sutton has a client with a property of "X" value, there is a difference between the county's appraisal and the property's market value. He said this is an issue about how to protect the citizens and the quality of life in Beaufort. Everyone he knows who lives in the flood plain wants to keep their houses there, not elevate them or move. **The motion passed unanimously.**

**AUTHORIZATION FOR THE CITY MANAGER TO NEGOTIATE A MEMORANDUM OF UNDERSTANDING (MOU) FOR THE MANAGEMENT, MAINTENANCE, AND OPERATION OF WHITEHALL PARK** SEP

**Councilman McFee made a motion, second by Councilman Murray, to approve the authorization.** **Paul Sommerville**, county council chairman, said the matter of Whitehall Park first went to the county's Natural Resources committee, where it received unanimous support "with caveats," including that the City of Beaufort would help with maintenance. At the full county council meeting, support for the park was also contingent on this, he said.

Mr. Sommerville said for the first two years, Whitehall Park would be maintained by the developer, who would put in the infrastructure, mow it, and pick up trash. After that, the needs would be the same, Mr. Sommerville said; any infrastructure put in after that would be done in coordination with the city. The City of Beaufort and the county would be partners on this, he said. Unless the city agrees to help with maintenance of the park, he said he knows he cannot get county council support at its September 10 meeting.

Mr. Sommerville believes the Friends of Whitehall Park would fundraise and would help with maintenance. The Friends of Fremont “do everything out there,” he said, and there are other “Friends” groups throughout the county that “actually do work” on the parks they support. He asked city council to take “a leap of faith,” like county council had, about the park.

Mr. Sommerville said there are “hundreds, if not thousands,” of people in the community who have asked for “this park to become a reality.”

Mayor Keyserling said he and Mr. Prokop had a telephone meeting this morning with the county administrator, the county planner, and the Rural and Critical Lands coordinator. Mr. Prokop described “the history” of plans for a park at Whitehall. He believes there’s “some confusion” among some in the public about it. A park at Whitehall has been part of the city’s master plan “for a number of years,” he said, and there’s a diagram of a park of “one to two acres” in the Civic Master Plan. There have been a number of developers of the Whitehall property, he said, and there has always been a park planned there in “various configurations.”

Mr. Prokop said the city has “worked closely with the county” on a 1 to 1.5-acre park at Whitehall, including on “building the connection from the bridge to the park,” for which county council “voted to spend up to \$300,000.”

The city’s “opinion” is that “the park doesn’t need to be 10 acres, Mr. Prokop said, and its concern is that the city has to maintain the park, but “it’s really not clear yet” what type of park it would have to maintain. Mr. Prokop’s understanding is that the developer would have his landscape architect draw up a plan for the park. County and city staffs could work on a memorandum of understanding. All Rural and Critical Lands property and Open Land Trust lands are maintained by the city or the county, he said.

Mr. Prokop said the city has a financial concern because it thought it was maintaining a 1- to 2-acre park, and “forever” maintenance has not been determined; he and the county administrator and their staffs can negotiate this.

Mr. Prokop said this is an opportunity for the county, the city, and the members of the community to come together and work on this.

Councilman Cromer said he's in favor of the park, but he wants to see the memorandum of understanding resolved.

Councilwoman Sutton said she wants a park at Whitehall, and council has supported the smaller park, but 10 acres "certainly changes things." This is "a . . . complicated issue," she said, because of the city's "budgeting processes," and "there are so many things [that] sometimes the public doesn't know or understand." Councilwoman Sutton supports the park and authorizing Mr. Prokop to negotiate the memorandum of understanding, but "there are stipulations that I think we need to discuss and iron out before the final decision."

Councilman Murray said he loves parks. A "nasty email" was sent out "by one of the members of Friends of Whitehall" Park, he said, which said that some city council members "are adamantly opposed to the park," which he found "unnecessary." Before he was on council, Councilman Murray said, he would have "absolutely" wanted a 10-acre park on the Whitehall development. He is frustrated with this project because 2 years ago, a previous Whitehall developer asked the city "for a significant amount of money for infrastructure," but then couldn't provide council with the necessary financial information it requested. Councilman Murray set up meetings with approximately 20 stakeholders (e.g., Coastal Conservation League, Open Land Trust, chairman of the county council) with the developer after that one. MidCity Partners and developer **Sam Levin** have always been "willing to sell or donate some area of land in Whitehall for the public good," he said, and he feels that "all along, public access" to land there "has been of critical importance."

Councilman Murray said he'd participated in the negotiations for a park of an acre to an acre and a half at Whitehall, which amounted to 2 to 2.5 acres if there were also public access to "the developer's green space." The county was going to do infrastructure improvements, he said, and the city would maintain the park. This was "a perfect partnership that got us something without a whole lot of public investment," Councilman Murray said, and the park was "appropriately sized."

What's on the table now is a 10-acre park, which county council approved yesterday, Councilman Murray said. He likes the idea of that size park and feels the city could take over the maintenance, but there are questions about what that would mean long-term and "how the partnership will work." He said strategic and capital improvement plans and the Civic Master Plan for years have said that diversifying businesses downtown is a goal of the city, and while "it's a small effect," a park of this size would take away residences for people who would use those businesses, which is something to think about, and it would take away tax revenues that could be used for "critical investments in the rest of the city."

Another issue Councilman Murray has is that "we're being asked to circumvent the processes and transparency that we've put in place over the years." He explained what

he meant in terms of the city's budget process and the Civic Master Plan, which "doesn't show a park that size."

Councilman Murray said another concern is what he terms "flowers versus infrastructure." He listed many critical infrastructure needs in the city and said there is "no funding mechanism for most of those." The city is "prepared to borrow" \$8 million "to keep people's houses from flooding" in Mossy Oaks, he said, so it is not a matter of council not wanting to fund parks, but Whitehall Park is not critical infrastructure, for which finding "all the resources that we need" is "a real challenge."

Of greatest importance to Lady's Island residents, Councilman Murray said, is that if this money is spent on Whitehall Park, it will nearly "exhaust the Rural and Critical Lands fund." He is in favor of "replenishing that fund," which will be on the ballot in November, but when the Lady's Island study is released, it will say that between 8,000 and 8,900 additional single-family residential units "will be allowed to be built on Lady's Island," as well as 2.2 million square feet of additional commercial footage. There will be "transportation consequences" of this, Councilman Murray said, so he asked if they should "exhaust a finite amount of Rural and Critical Lands money" that could be used "to start trying to reduce those densities to some more appropriate level." There are "much more critical needs on Lady's Island in terms of growth management and transportation infrastructure management," he said, so he asked if "this small pot of funds" should be used to buy this park, which would be "nice to have," instead of focusing on "what we need to do."

At the same time, Councilman Murray said, he represents "the people," so he will listen to those constituents who have come to council to say this park is a priority, if they are "willing for us to circumvent some of our processes" and are "okay that some of the priorities" the city has "already committed to," such as Southside Park, the Spanish Moss Trail connector, or "some of the stormwater improvements" are delayed. He feels "the majority of Beaufort" and Lady's Island residents haven't yet had the opportunity to "have the public debate" about this.

Councilman Murray is in favor of negotiating a memorandum of understanding, but he urged "a little pumping of the brakes" to work out details, so city residents and future generations are not burdened with a bill "that continues to add up over the years."

Councilman McFee said city council feels this park is an important opportunity that will not happen again, but he feels "there are issues to address" about it. He said what Councilman Murray had talked about are the concerns that city council and city staff have had in the last 10 days. The process is moving very rapidly, Councilman McFee said.

Councilman Murray said if land is taken off the tax rolls, then "it's critically important that we also have a balanced program for economic development that says [for] this property in this part of the county, we're going to get the highest and best use of tax



dollars out of" it. He urged those present who are "this passionate about parks" to be as passionate about "the economic development initiatives . . . in the city and the county."

Mayor Keyserling said Councilman Murray had explained "what has been going through council's mind." He has spoken to many supporters of Whitehall Park and has met with representatives for Open Land Trust and Rural and Critical Lands, the county administrator, and the county council chairman. "These are very unusual kinds of transactions," Mayor Keyserling said, "because this is probably the first time the public will have a chance to say anything because it's done in executive session under 'land purchase,'" so he's glad people have come to this council meeting.

Mayor Keyserling said that what Councilman Murray said are "the unstated concerns of all of us" on council. His concern was that at the first meeting about the park, he asked about 5 acres, rather than 10 acres. He said he "was told that was non-negotiable." He supports "a park," and he will support this park, but he's "not going to be here forever," and if his predecessor had left him an agreement obligating the city in perpetuity, with "no management responsibility" but responsibility for all the maintenance, that would be bad.

Mayor Keyserling said he needs to "get a better handle" on this. The 10-acre park would lead the city to have to "figure into the budget something that could become very different from what we know" it as now. There is no plan, and he understands the developer has agreed to provide one, but it will not be done by September 11. There's no way to know how much maintenance would be needed in perpetuity, Mayor Keyserling said. There is also a question of whether the city or the county would manage the park, and they need to figure out what they are committing future city councils to.

Mayor Keyserling thinks priorities could be rearranged, but "unfortunately, when you don't really know what you're going to have to take out of where" to do so, or "what the future brings, it's hard." He wants the city manager to work with the county toward "something that gives a better comfort level that council is not potentially hanging a noose around the city's financial neck."

**Colden Battey** said this is an iconic property for many reasons. He knows that this has happened quickly and that a decision needs to be made quickly because of the developer's deadline. Mr. Battey said he knows this park would eliminate 60 residential units, but he thinks that's a good thing. He knows budgets are important, but he feels \$100,000 is not much compared to the city's budget, and it's not much compared to what the city would get with this park. Mr. Battey urged council to not "get hung up on what might happen" 20 or 30 years from now. No one can anticipate "30 or 40 years in the future," he said.

Mayor Keyserling asked Mr. Sommerville if he could ask county council to limit the city's involvement to \$100,000. Mr. Sommerville said no numbers have been discussed yet.

Mayor Keyserling said the county is asking the city “to be vulnerable,” and the city’s concern is with “much grander visions” for the park “that people have” beyond just bush-hogging the land and maintaining that as a nature preserve. Mr. Sommerville said county council has no “grandiose ideas about the park.” They are interested in protecting and preserving it. Specific decisions could be made later in conversation with the Open Land Trust, the city, and the county. He would like there to be a partnership, so they could make those kinds of decisions together.

Mayor Keyserling said the “issue of who manages” the park is important. If the city is going to maintain it, it must be at the table, but “the only way I’d agree to be at the table is if we’re charged with managing it.” He couldn’t support “writing a blank check” until “we get some comfort level,” which the city doesn’t have yet. At a meeting today, it was said that the county would manage the park, and the city would maintain it, Mayor Keyserling said, but he has heard that the developer would like the city to manage the park. He said if he knew it would cost the city “\$100,000 a year forever,” he would support it.

Mr. Sutton said he is “very happy to see this moving in the right direction.” He asked why the county doesn’t “deed the property to the city and let us manage it.” According to the county’s ordinance, there is “a passive park committee” that reviews “the use, design, and funding of any parks purchased by the Open Land Trust through the Critical Lands Program,” he said. If the park remains as county property, there are processes set up “to do the things that the city might not be comfortable with,” Mr. Sutton said.

Mr. Sutton said almost everyone in the room lives in Beaufort County, so it’s not about “the county versus the city.” It’s about the taxpayer, he said, and no one is protecting the city residents who pay more in taxes because they pay them to both the city and the county. If the county doesn’t give the city “the funding mechanism” for Whitehall Park, then it should give the city management control of it.

**Joe MacDermant** suggested council run the Shrimp Festival 5K. He said Mr. Paul, who owned the restaurant that was formerly at Whitehall, would appreciate photos of it. He mentioned a small yoga studio that had been next to the restaurant.

Mr. MacDermant said there are comments on the Internet about keeping Southside Park as a passive park and about safety concerns. He said people didn’t want Spanish Moss Trail for reasons of safety. Southside Park is 30 acres, and the larger it is, the more conducive it is to recreation, he feels.

Mr. MacDermant recommended a charette on Whitehall Park, and suggested Hootie and the Blowfish, which played at Daniel Island recently, could play at its grand opening.

**Beek Webb** said this is a great opportunity. If the city and the county don’t work it out

somehow, “we will regret it forever,” he said. As far as maintenance, it is totally a passive park at this point, he said, and the Open Land Trust maintains hundreds of acres of open woodland like that “for well less than the figures we’ve been talking about.” Picking up trash in the park “would be very little expense,” and it could be bush-hogged twice a month. It would be a different consideration if restrooms are installed at some point in the future, Mr. Webb said.

Mayor Keyserling said he agrees with Mr. Webb’s points, but “when you negotiate, you’ve got to work with each other.” He asked if anything is negotiable with the county. “If it’s not fixed in iron,” he said, “we’re going to have a deal.” Whatever happens, the city is at the table, Mayor Keyserling said, and “this is the first time we’ve expressed ourselves” about it. “Both sides” have to agree that they want it to work, he said.

Mr. Webb said what’s being decided tonight is whether council will allow the city manager to negotiate. Mayor Keyserling said yes, “but county council has been pretty firm that [management] is non-negotiable.”

**Lise Sundrla**, Beaufort Area Hospitality Association (BAHA), said she thinks city council is asking the right questions. She said BAHA has questions, too, about the role of the city in the property. A passive park has different needs than a programmed park, Ms. Sundrla said, and she thinks it’s important to think of this as an opportunity to program activities, so she doesn’t want the city’s focus to shift from Waterfront Park “to a new park.” She asked where funding for a park at Whitehall would come from, and said it’s important that this funding be put back “into the pool” that funds the maintenance of the park.

**Edie Rodgers** said when Mr. Prokop spoke, she told her friend, “I could have written his speech.” She believes a 10-acre park is too large. She loved the idea of the connector from downtown that was proposed in the past. From a budget perspective, every year there’s an effort to balance the budget, Ms. Rodgers said, and “we have so many parks to maintain” already. The Waterfront Park is the largest and most expensive, but it brings in revenues, too, she said.

Ms. Rodgers asked if people realize Waterfront Park is 7.5 acres, and this park is proposed to be 10 acres. She suggested people look at Waterfront Park from across the river. Maintenance alone makes Whitehall Park “an expensive venture,” she said. Also, Ms. Rodgers thinks a park of that size would attract “lots of cars, lots of traffic,” and that people would want it to have “attractions,” not to have it be just a natural preserve.

Ms. Rodgers advised “caution” and said “what’s down the road” should be considered. At a neighborhood association meeting, after the Boundary Street project ended, she said the city manager had said that for a few years, “maybe we should take care of what we have,” and she agrees. This is “a lot of money,” Ms. Rodgers said, and with it will come a commitment from the taxpayers.

**Paul Butere** said he's a resident of Lady's Island and a property owner in Beaufort. He sees Whitehall Park "as an opportunity," not "as an expense." He doesn't think that when Henry Chambers began thinking about Waterfront Park, he went to a meeting and heard "Let's spend the money for this park" from everyone present. There was probably excitement about it, Mr. Butere said, but there were also probably people saying it wouldn't work, and he feels Whitehall Park is similar to that.

Friends of Whitehall Park was formed a month ago, Mr. Butere said, and since then, they've gathered signatures from 4,300 people in support of the 10-acre park. The Friends do not have plans for the park, he said; the group was formed to get the park first, and then to volunteer to help raise funds, maintain it, etc. He said they want to help in any way that's needed for the park. Organizations can help pay for benches and trees or could sponsor an acre, Mr. Butere suggested. He doesn't believe that the city should "write a blank check."

**Bob Semmler** discussed Bluffton Oyster Company's land being converted to Oyster Factory Park in 2003 as a joint venture with the county that has been successful. He hopes the effort to create Whitehall Park will "go forward in a positive manner."

**Christopher Inglese** is a county attorney, but he said he is speaking as a resident of Lady's Island to support Whitehall Park. Since he has lived here, he said, he feels "at home" because of groups like the Friends and county council. He said he hopes city council will "Keep It Simple, Silly" and will let county council know that they are willing to be a partner with it and will "put . . . on the record" what they are comfortable with doing for the park. Design and management of the park will "get hashed out," Mr. Inglese said, so he suggested council "kick the can down the road" on that and focus on the maintenance commitment that the city would be willing to make.

**Joe Allard**, Lady's Island, is a Friend of Whitehall Park. He said people come to Beaufort to see the historic homes and the water views, not to see "condos," so it's important to keep in mind that this park would prevent that at Whitehall. He thinks it's important to "keep in mind the development of the park." There was a lot of opposition to Waterfront Park initially, he said, and there has been a lot of expense for that park. Mr. Allard said there is now an opportunity to get Whitehall Park, and to lose that "would be a travesty."

Mayor Keyserling said he hopes the people who came to this council meeting would also attend the county council meeting. "It's not us versus them," he said. "It's how do you share responsibility." He has heard that on social media and elsewhere the city is being made out to be "the problem" with Whitehall Park. For a week, "the pressure's been on us," Mayor Keyserling said, and city council has been portrayed as "the bad guy."

Mayor Keyserling said, "If this is a good thing with the community," and a memorandum

of understanding is drawn up with the county, he hopes that the public will “be there.” This is “not in the city’s hands,” he said. It’s “supposed to be a partnership,” Mayor Keyserling said, and city council is saying, “Let’s look at the partnership.”

Councilman Murray said he feels it’s important to make the distinction between the county, which has a segregated Rural and Critical Lands fund “that’s been sitting there” that “they’ve chosen to spend . . . on the park,” and the city, which doesn’t “have a designated pot of money for ongoing maintenance.” While the developer has said he would give the city 2 years “to figure that out,” Councilman Murray said, “again, it’s circumventing our budget process,” and council is being asked “to make a decision in the middle of a fiscal year that has budget implications that [are] not respective of all of the stakeholders that we generally try to engage” in that process.

Mr. Prokop said that on the previous night at county council, the question was raised about whether the city would “pick up the maintenance.” The city “thought the county was going to take care of the arborist [and] the tree cutting,” he said, but county council said, “No, that’s not on the table anymore.” Mr. Prokop said, “Things changed in 24 hours from what we thought we had.”

City council’s next meeting is on September 11, Mr. Prokop said, and county council’s is September 10, so city council can’t approve an agreement until a day after county council needs it to. **Tom Keaveny**, the interim county administrator, said they’d spoken to Mr. Levin “about the time crunch,” and Mr. Levin said he could give them “a little room” because of this situation.

Mr. Keaveny said there has been no discussion about management of Whitehall Park; the conversation was about whether the city “would agree to perpetual maintenance.” Another issue is “what kind of park” it would be, and how “passive” would be defined in the context of this park, he said.

Mayor Keyserling said if the city is to have responsibility for perpetual maintenance of the park, the city has “to be the manager.” Mr. Keaveny said again that there has been no discussion about management.

Councilman Murray requested that there be a presentation about the memorandum of understanding at the next council meeting. **The motion passed unanimously.**

#### **REIMBURSEMENT RESOLUTION** <sup>[11]</sup><sub>[SEP]</sub>

**Councilman Murray made a motion, second by Councilman McFee, to approve the resolution.** Mr. Prokop said the city is going out for bonding of \$8 to \$10 million for stormwater. This resolution is necessary because the bond funds won’t come through until December, he said, and this would allow them to borrow money from the General Fund until the bond comes through. This resolution allows the city to use current cash, Mr. Prokop said, and when the bond is issued, the city would reimburse what it had

used from the General Fund with bond funds. **The motion passed unanimously.**

#### **APPOINTMENTS/RE-APPOINTMENTS TO CITY BOARDS AND COMMISSIONS** L SEP

**Councilman Murray made a motion, second by Councilman Cromer, to table this item. The motion passed unanimously.**

#### **CITY MANAGER'S REPORT**

Mr. Prokop said he would offer highlights of things that had happened since the last city council meeting.

Former Mayor **Henry Chambers** passed away, he said, and there was a nice ceremony for him in Waterfront Park.

During this summer's heavy rains, the city was able to identify "24 hotspots" where flooding has created problems on South Carolina Department of Transportation (SCDOT) properties, Mr. Prokop said. The city has repaired 16 of them. The remaining flooding areas are at "8 major intersections" that SCDOT has not maintained, he said, and the city has asked SCDOT "to address them." The expectation is that the department will respond that it would like to do the repairs, but it does not have the funds, Mr. Prokop said.

The semi-annual Municipal Association meeting took place on Hilton Head, Mr. Prokop said; he feels that what Beaufort is doing is what most other municipalities are doing, "and there's not a lot that we haven't been addressing."

The Southside Park surveys were sent out, and data has been obtained from them, Mr. Prokop said. Staff will make a presentation about the results at the September 11 council work session, he said. "35% of the 1,800 people who live in the neighborhood didn't know the park was there," Mr. Prokop said, which "starts to raise some questions. And 72% have no children and want playground equipment" in the park.

Mr. Prokop said the countywide plastic bag ordinance public relations program has started, in coordination with the other municipalities in Beaufort County.

Councilman Murray and Councilman Cromer will be running unopposed for their current council seats, Mr. Prokop said.

Oliver's Clean Burn is up and running on 16 acres in Commerce Park, he said.

Mr. Prokop said that, because of the energy program from Johnson Controls in the city's buildings, energy savings this year through July have been 106%, far-exceeding Johnson Controls' guaranteed savings. The city is currently generating more energy than it is using, he said.

The weeds in the median on Boundary Street “are getting under control,” Mr. Prokop said. BrightView, the contractor, is “addressing the comments” about the weeds, and the median at Walmart is also being addressed. The city will have to maintain the Boundary Street plants next year, he said, which is “a mile and a half” of road with “18,000 plants” on it. Councilwoman Sutton said, “I think we can simplify [those] 18,000 plants.” Mr. Prokop said staff is looking into that, and some plants would “be replaced with rocks.”

Mr. Prokop said Shrimp Festival would be a great community event.

### **MAYOR’S REPORT**

Mayor Keyserling said he and Councilman McFee had gone to Coastal Stage Productions’ new theater venue on Lady’s Island in the former movie theater.

Mayor Keyserling thanked each of the council members “for a meeting that was a challenge” and “for speaking your hearts and your minds” about Whitehall Park, “so that hopefully we can do something good.” He said he continues to be proud to be the mayor with a council that “works so well together, sticks together, talks to each other, [and] bends when we need to bend.”

### **COUNCIL REPORTS**

Councilman Murray acknowledged and spoke to various people in the audience.

Councilwoman Sutton said she, Mayor Keyserling, Councilman Cromer, and Councilman McFee had attended a “regional advocacy meeting” in Walterboro.

**There being no further business to come before council, Councilman Cromer made a motion, second by Councilman McFee, to adjourn the regular council meeting. The motion passed unanimously, and the meeting was adjourned at 10:03 p.m.**



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## CITY OF BEAUFORT

### DEPARTMENT REQUEST FOR CITY COUNCIL AGENDA ITEM

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**TO:** CITY COUNCIL **DATE:** 9/20/2018  
**FROM:** Kathy Todd  
**AGENDA ITEM**  
**TITLE:** Authorization to allow City Manager to execute contract for Arsenal Re-Roofing  
**MEETING**  
**DATE:** 9/25/2018  
**DEPARTMENT:** Finance

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*BACKGROUND INFORMATION:*

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***PLACED ON AGENDA FOR:*** Action

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***REMARKS:***

Request the City Council authorize the City Manager to execute the contract for the re-roofing of the Arsenal.





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## CITY OF BEAUFORT

### DEPARTMENT REQUEST FOR CITY COUNCIL AGENDA ITEM

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**TO:** CITY COUNCIL **DATE:** 9/21/2018  
**FROM:** William Prokop, City Manager  
**AGENDA ITEM** Authorization to allow City Manager to enter into Memorandum of Agreement (MOA)  
**TITLE:** for Regional Stormwater Project  
**MEETING**  
**DATE:** 9/25/2018  
**DEPARTMENT:** City Managers Office

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*BACKGROUND INFORMATION:*

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*PLACED ON AGENDA FOR:*

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*REMARKS:*

**ATTACHMENTS:**

Description	Type	Upload Date
MOA	Backup Material	9/21/2018

STATE OF SOUTH CAROLINA    )  
  )  
COUNTY OF BEAUFORT         )

**MEMORANDUM OF AGREEMENT**

**CITY OF BEAUFORT**

**THIS MEMORANDUM OF AGREEMENT** is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2018 by and among the City of Beaufort, South Carolina, a South Carolina municipal corporation created and existing pursuant to S.C. Code Ann. § 5-7-10, et seq., located within Beaufort County (hereinafter referred to as the “City”), and Beaufort County, South Carolina a body politic created and existing pursuant to the provisions of S.C. Code Ann. § 4-9-10, et seq. (hereinafter referred to as the “Beaufort County”) collectively referred to herein from time to time as the “Parties.”

**WHEREAS**, the City and Beaufort County recognize that it is mutually beneficial to share in the cost of meeting certain mutual goals for water quantity and quality in our Lowcountry region; and

**WHEREAS**, Beaufort County and the City of Beaufort previously entered into a Stormwater Management and Utility Agreement (the “Intergovernmental Agreement”) dated November 16, 2016, to define and implement environmental initiatives related to the protection of Northern Beaufort County Watersheds and other outstanding natural resources, a copy of which is fully incorporated herein by reference; and

**WHEREAS**, Section 8.01 of the Intergovernmental Agreement established that the participating municipalities and Beaufort County may enter into agreements to share the costs and responsibilities related to stormwater activities, including planning and implementation, and may contract for the private services and materials related to stormwater activities and request the other party to assist in the payment for the contracted services and materials at an agreed upon rate; and

**WHEREAS**, the Parties have determined that establishing an Intergovernmental Agreement is both cost-effective and supportive of each Party’s mission to protect the local watersheds and other outstanding natural resources and to implement both Beaufort County’s and the City’s Monitoring Plan, Stormwater Ordinance, Stormwater Management Plans, Illicit Discharge Detection and Elimination Plan, Best Management Practice Plan and Enforcement Response Plan (as applicable); and,

**WHEREAS**, elected officials representing Beaufort County, Jasper County, the City of Hardeeville, and the Towns of Bluffton, Hilton Head Island and Ridgeland jointly participate in the Southern Low Country Regional Board (SoLoCo) to enhance regional communication and to propose action plans for a united and sustainable Lowcountry to the appropriate legislative bodies; and

**WHEREAS**, through such discussions, SoLoCo has identified the need for consistent Stormwater ordinance and design standards to be of benefit to protect regional water resources and quality of life; and

**WHEREAS**, SoLoCo recommended to the legislative bodies of each member institution, as well as the City of Beaufort and Town of Port Royal, to share the costs and responsibilities related to developing uniform Stormwater ordinance and design standards; and

**WHEREAS**, by way of this agreement, the legislative bodies of City of Beaufort and Beaufort County do concur with the County’s contracting for the private services and materials related to the development of uniform Stormwater ordinance and design standards and request each party assist in the payment for the contracted services and materials at an agreed upon rate; and

**WHEREAS**, Beaufort County shall enter into a contract, attached as Exhibit A and fully incorporated herein by reference (the “Contract”), with the Center for Watershed Protection, Inc. (hereinafter referred to as “Contractor”) to procure services at a cost not to exceed One Hundred and Seventy-Nine Thousand, Five Hundred and Forty-Four Dollars, and Zero Cents (\$179,544.00) for a Lowcountry Regional Stormwater Ordinance and Design Standard (hereinafter referred to as the “Regional Standard”) to be developed over fiscal

years 2019 and 2020; and

**WHEREAS**, Beaufort County has requested that the City share in payment for Contractor services and the City agrees to share in the cost for the services in an amount based upon the proportion of population that lie within the City of Beaufort Limits as shown in the Table below, with Beaufort County agreeing to pay the remaining cost for the services; and

**WHEREAS**, the City and Beaufort County are authorized to enter into this Agreement by virtue of the provisions of Sections 4-9-30, 4-9-40 and 4-9-41 of the South Carolina Code of Laws, 1976, as amended, and Article VIII, Section 13 of the South Carolina Constitution; and,

**WHEREAS**, the Parties have determined that it is reasonable, necessary, and in the public interest and welfare for the Parties to cooperate and coordinate in the financing and production of a Regional Standard in accordance with the Contract, as set forth more thoroughly herein; and,

**WHEREAS**, this agreement shall be in effect from the date of execution and for the remainder of the Contract duration.

**NOW, THEREFORE**, for and in consideration of the mutual promises, undertakings and covenants set forth herein, the receipt and sufficiency of which are hereby acknowledged and affirmed by Beaufort County and the City, the Parties hereto agree as follows:

1. **Recitals Incorporated.** The foregoing recitals are hereby incorporated as though fully set forth herein.
2. **Payment to Beaufort County.** The City agrees to compensate Beaufort County in the amount not to exceed the sums shown below in the Table below, to be paid over fiscal years 2019 and 2020 for its proportional share of funding the consulting activities of the Contractor through Beaufort County; Beaufort County agrees to pay the remaining costs for the services.

Party	Population Percentage	Not to Exceed Amount
Town of Bluffton	11.3%	\$20,203.00
Town of Port Royal	7.6%	\$13,669.00
City of Beaufort	8.0%	\$14,374.00
City of Hardeeville	3.4%	\$6,116.00
Jasper County	11.1%	\$19,889.00
Beaufort County	58.7%	\$105,302.00

3. **Acknowledgment.** The Parties acknowledge that the intended result of this Agreement and the Contract are mutually agreeable Regional Standards to be available for adoption by Beaufort County, Jasper County, the Town of Bluffton, the Town of Port Royal, the City of Beaufort and the City of Hardeeville and codifying within the respective governmental body's code of ordinances; however, the Parties further acknowledge that incorporating the Regional Standard will require the adoption of appropriate ordinances by the governing body of the municipality/county and that neither this Agreement nor the Contract shall be deemed as an agreement to do the same.
4. **Miscellaneous.**
  - a. Waiver. In the event that any agreement contained herein should be breached by either party and thereafter waived by either party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.
  - b. Amendments. Except as otherwise provided herein, this Agreement may not be amended, changed, modified or altered without the prior written consent of both Parties hereto.

- c. Severability. In the event that any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provisions hereof.
- d. Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.
- e. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina.
- f. Captions. The captions or headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provision or sections of this Agreement.
- g. No Partnership. The Parties hereto intend only to provide for the provision of the services described herein and affirmatively state that no master-servant, principal-agent, employer-employee relationship is created by this Agreement. No employee, volunteer, contractor, agent, or subagent, shall be considered an employee or agent of the other party for any purpose whatsoever, and none shall have any status, right or benefit of employment with the other.
- h. No Third Party Beneficiaries. The Parties hereto affirmatively represent that this Agreement is made solely for the benefit of Beaufort County and the City and is not for the benefit of any third party who is not a signature party hereto. No party other than the signature parties hereto shall have any enforceable rights hereunder, or have any right to the enforcement hereof, or any claim for damages as a result of any alleged breach hereof.

**IN WITNESS WHEREOF**, the City of Beaufort, South Carolina and Beaufort County, South Carolina, by and through their duly authorized officers have set their hands and seals on this \_\_\_\_\_ day of \_\_\_\_\_ 2018.

**WITNESSES:**

\_\_\_\_\_  
\_\_\_\_\_

**BEAUFORT COUNTY**

**By:** \_\_\_\_\_

**Its:** \_\_\_\_\_

**WITNESSES:**

\_\_\_\_\_  
\_\_\_\_\_

**CITY OF BEAUFORT**

**By:** \_\_\_\_\_

**Its:** \_\_\_\_\_