

**January 13, 2004**

## **COUNCIL CHAMBER**

Regular meeting.

The second meeting of the City Council of Charleston was held this date convening at 5:00 p.m. in City Hall.

A notice of this meeting and an agenda were mailed to the news media February 9, 2004 and appeared in The Post and Courier February 11, 2004 and is made available on the City's website.

### **PRESENT**

The Honorable Joseph P. Riley, Jr., Mayor; Councilmembers Fishburne, Morinelli Lewis, Campbell, Gallant, Gilliard, Waring, Evans, Tinkler Shirley, Bleecker, and George --- 13.

The meeting was opened with prayer by Councilmember Evans.

Councilmember Evans led City Council in the Pledge of Allegiance.

Mayor Riley invited Councilmember Lewis to join him on the dais. The Mayor noted that Councilmember Lewis had been Mayor Pro tem for the past year. He stated that Councilmember Lewis had represented him and the City of Charleston in a myriad of ways at meetings, get togethers, conventions and ceremonies. He noted that Councilmember Lewis had served each time in great quality and aplomb in representing our City in such a wonderful manner.

Mayor Riley said that even though Councilmember Lewis is very busy with his job in addition to serving as a busy member of City Council, he was always so happy to represent the City that he serves, loves and represents so well.

Turning to Councilmember Lewis, the Mayor read and presented a plaque to him "in appreciation for service as Mayor Pro tempore 2003." The Mayor thanked Councilmember Lewis for his service to the City. A standing ovation followed the presentation.

Councilmember Lewis responded that it had been a pleasure to serve as the City's Mayor Pro tem. He said that he went a lot of places and met a lot of people. He noted that it had been a pleasure to represent this Mayor, this City Council and this great City throughout this City, the county and the state. There was another round of applause following Councilmember Lewis' comments.

The Mayor then extended a welcome to Councilmember Bleecker as the Mayor Pro tem for

2004. He noted that she had been elected at the inaugural meeting on January 12<sup>th</sup>.

Council next considered the recognition of the Department of Recreation Employee of the Year and Part-time Recreation Leader of the Year. Mayor Riley invited Director of Recreation Paul Wieters, Faye Riggsbee, a Facility Assistant with the Charleston Tennis Center, Matt Olson, Environmental Education Coordinator, and Alvin Oree, Recreation Leader to join him at the podium.

The Mayor called on Mr. Wieters to introduce the Employees of the Year and the Recreation leader of the Year.

Mr. Wieters briefly commented on the wonderful opportunity to take the time to honor some of the outstanding people who really make a difference, not only for our citizens, but for the staff as well with their extra effort and willingness to do what it takes to provide outstanding programs to everyone.

Continuing, he said that there are two awards and three honorees. He spoke first about the Hazel Parker Employee of the Year Award, which is named in honor of a long time employee who went beyond her playground duties to ensure that the children in her community received the highest attention to improving their quality of life. Mr. Wieters noted that the other award is known as the Thelma Bradley Award, another playground leader that led Corrine Jones Playground. He commented that these awards recognize their commitment to recreation. He explained that there were two winners of the 2003 Hazel Parker Award and one winner of the 2003 Thelma Bradley Award. He spoke about the contributions and commitment of Ms. Rigsbee, Mr. Olson and Mr. Oree. Mr. Wieters stated that not only do these employees do an exceptional job, they are always willing to volunteer to help other members of staff. Mayor Riley commented that Hazel Parker is a wonderful person and her love for the children and the people of our community was obvious every time you saw her at East Bay Playground, which is now known as Hazel Parker Playground. He went on to say that Ms. Rigsbee and Mr. Olson are people cut from that same cloth. He noted that our citizens, particularly our younger citizens, are so fortunate when there are people with such love and such willingness to go above and beyond the call of duty. The Mayor said that Hazel Parker had done this and Ms. Rigsbee and Mr. Olson continue to do so.

The Mayor turned to Ms. Rigsbee and Mr. Olson and told them that he was very pleased to present each of them with a plaque recognizing their contributions to the community. An extended round of applause followed these presentations.

The next award recognized to Alvin Oree as the part time Recreation Leader of the Year. This award is called the Thelma Bradley Award to honor Ms. Bradley who also made a strong impact on the quality of recreation for the children and community during her 30 years in recreation. Mr. Wieters noted that Alvin Oree, a recreation leader working at Mitchell Playground, had been selected to receive the Thelma Bradley Award. He further commented that Mr. Oree had reached beyond his job scope and brought a level of professionalism to the City's playground system.

The Mayor spoke briefly about Ms. Bradley's service at the Corinne Jones Playground on Hester Street. He noted that the City's playgrounds had been wonderful, safe, healthy, encouraging, supportive fun places for children after school long before the term "after school programs" became so recognizable.

He said that when there is a caring adult who gets to know the kids, looks out for them, assists them and encourages them, then the City is being the best that it possibly can be. He commented that Alvin Oree has been that and continues to be that for our City. The Mayor then turned to Mr. Oree and presented the Thelma Bradley Award to him. Another extended round of applause followed this presentation.

The Mayor extended his congratulations to all of the recipients and each of them expressed their appreciation for the awards.

Mayor Riley recognized the City's Tennis Director Peggy Bohne. Ms. Bohne shared some information about Ms. Rigsbee and the wonderful work she does behind the scenes.

Councilmember Evans noted that Ms. Bohne would be leaving this meeting to attend her neighborhood association meeting where she serves as president. She further noted that although Ms. Parker had retired from actively running the playground, she continued to actively and enthusiastically serve our community on one of the City's commissions.

Without objection, Mayor Riley reminded everyone of the fourth annual YWCA City of Charleston Business and Professional Breakfast honoring Dr. Martin Luther King, Jr. He said the breakfast was scheduled at 7:30 a.m. on January 20, 2004 and the speaker would be Ken Lewis, Chairman of the Board of Bank of America. He encouraged everyone to attend and asked them to encourage their friends to come as well.

There were no public hearings at this meeting.

Next on the agenda was the approval of the minutes of City Council's December 2 and December 16, 2003 meetings. The minutes of the December 2, 2003 meeting were approved as published on motion of Councilmember Evans.

Approval of the minutes of the December 16, 2003 meeting was *deferred*.

The Citizen Participation Period followed. The following persons addressed City Council: 1) William King, 2041 Fort Avenue, addressed Council in opposition to the proposed annexation of property at 2346 Twin Oaks Drive, TMS #355-13-00-001, 355-09-00-079, 080, 092. This matter would come before Council later in this meeting.

Mr. King distributed a document to Council regarding his objections to the annexation. A copy of the handout is on file in the office of the Clerk of Council in the meeting folder for this date. He said that there had been some indication at an earlier meeting that the residents of Magnolia Ranch had not voiced any major opposition to the proposal for the subject property. He stated that he had come to Council to speak on behalf of the majority of the lot owners in Magnolia Ranch Subdivision B.

He commented that there are 56 lots in Magnolia Ranch Subdivision B and about 49 or 50 property owners. He said that he had spoken to at least 30 of them and they were all vehemently opposed to any entrance of the subdivision going up Old Fort Avenue.

Mr. King asked Council to table the consideration of the bill, or motion or ordinance until further research, investigation and due diligence could be conducted by the City attorney. He remarked that two of the lots considered for annexation located on the western end of Old Fort Avenue are within and a part of Magnolia Ranch Subdivision B.

He read from a prepared statement that "these lots are subject to legal and enforceable restrictions, covenants and limitations, duly recorded with the Charleston County RMC Office that govern the uses for these lots."

Continuing, he said the developer/petitioner had submitted plans to the City for a proposed 50-60 home subdivision primarily built within the boundaries of TMS #355-13-00-001 (23.23 acres) that are not within the subdivision, but adjacent to it. He further noted that the plans submitted to the City show the main and only entrance to the proposed subdivision would be constructed off of Old Fort Avenue through Lot 50 of Magnolia Ranch.

Mr. King cited the restrictive covenants and said that the lots could not be divided or subdivided. He said that it was a fact that the Mayor knew that the previous owner had been negotiating with the City for at least two to three years on this particular subdivision. He stated that the City had adamantly refused to allow or permit any entrance to the subdivision off of Glenn McConnell or Mary Ader Drive adjacent to the City's West Ashley Park.

He went on to speak of a South Carolina Supreme Court case regarding restrictive covenants and said that if the City approved an entrance to the proposed subdivision through any lot within Magnolia Ranch, the City could be exposing itself to protracted and costly legal liability. He again asked Council to table this matter.

Mr. King stated on behalf of the Magnolia Ranch property owners that it was not their intent to run a confrontation with the City, City Council or the developer. He said that they simply wanted to put the City on notice that the City has a serious legal problem if they approve the entrance to the subdivision.

2) Vanessa Halyard addressed Council about some remarks that City Police Chief Reuben Greenberg had made about homicides in the black community. As she spoke, she held up a poster board that she had made about her son's life. Her son William had been shot to death at South Carolina State University in 1998. Ms. Halyard said that the only thing that her son had ever wanted to do was to get an education and serve our country in the armed services. She commented that he had been killed three months prior to graduating college and being commissioned as a second lieutenant in the US Army.

Ms. Halyard said that she was appalled that her son had been called a son of a bitch. She remarked that she wanted Mayor Riley to tell her, this young man's mother, how he could stand behind someone that called this child, anyone would have been proud to call him their son, a son of a bitch and called his mother a bitch. She commented that this had hurt her deeply. She said that she was not speaking for any other organization. She spoke very emotionally to the Mayor and said that she was addressing him for her child. She told him that she wished he would answer her.

Mayor Riley thanked her for coming to the meeting and told her that the Citizen Participation period would be concluded first.

3) Marc Knapp, West Ashley resident, told Council that he was on a new tear and wished them a Happy New Year. He also thanked the Mayor for inviting him to the inaugural meeting on January 12, 2004.

He said that he wanted to get right to the meat of the matter, CARTA. Mr. Knapp stated that he had received the auditor's report. He told Council that they would be voting millions of dollars for CARTA's maintenance facility and noted that the property was only worth \$4.4 million according to the report. He commented that even on an operating basis it is very seldom that an MAI appraisal gives more than 20 to 40 percent above and he said that Council was looking at more than 90 percent above what the appraisal had been. He said, "you're going to end up owning the bus facility." He told Council, "more power to you, I hope you can do something with it because the taxpayers aren't going to be happy."

Next, Mr. Knapp said that he had heard that someone in building inspections finally quit and he had heard that things were getting better. He stated that he had heard there was some serious improvement going on. He remarked that this was good because he was getting ready to get a building improvement and he said when he got down there things would get interesting. He spoke of having looked at three drainage projects in the last month in the Ashley Hall area where people were having problems. He noted that Council would be voting on another drainage project. He admonished Council to "fix what you've got first." He stated that every time he opens a catch basin he cannot even see the pipes. Mr. Knapp indicated that he had shown this to Councilmember Lewis. He said, "if you haven't got the people, then get the people." He remarked that the drainage in this City is basically dismal and it's because we are not taking care of it and you're building new projects because you need to take care of what you got instead of building new projects.

Mr. Knapp commented that he had already spoken with local television station Channel 2 and that he was getting ready to do a little expose´ on this. He told Council to get out there and make them do the work. He also said if they needed help, they could call him and he would show them where it is.

4) Muhammed Idris stated that he had come before Council a few weeks ago and had asked this Council that open up every meeting in the name of God that they would come up with some ordinance that would penalize the producer and the manufacturers of these filthy songs that say shoot the mother so and so, kill the mother so and so, etc. He stated that the church is not doing anything, the mosques and the religious community in general is not doing anything. He said that when we hear someone that someone is killed we get excited and emotional, but there is a reason behind it. He commented that when you have young children listening to "get the gun, your mama ain't nothing but a dog and hear songs on the television come here dog, my dog, and everybody else calling himself a dog", and the leaders in the community do not address that problem, you might hear anything from different people, but God made us human beings. He talked about addressing these problems and referred to the City's Livability Court. He said these problems should be addressed and the people producing the filthy songs and the words that promote youth to kill each other and to shoot each other should be penalized. He said that we should not stand idly by and listen to the songs. He did not feel that young children could be expected to be sane when they listen to this all day long.

Continuing, Mr. Idris spoke of the need for the churches and certain organizations to get involved to address these problems that have engulfed our society. He recalled a time when you could walk down the street and dare not curse a grownup but he said that day is over. He reiterated his request for this distinguished City Council to pass an ordinance on these people whose only concern is to make money.

5) Will Sheppard, President Forest Neighborhood Coalition, apologized for not having been at the recent Council meetings. He said that he had elective surgery, but he was back in the swing of things. He congratulated the Councilmembers that had won their seats and he congratulated the Mayor on his re-election.

6) Myra Brown talked about the death of her son Wayne Brown who had been murdered November 18, 2001 while dropping off a friend at home. She explained that she was not in town at the time and she had found out that her child had been murdered when she got home. She said that there had been no reason behind the murder of her child.

She also spoke about the recent comments that the Chief of Police had made. She talked about a son that is autistic and said that he asks about his brother often. Mrs. Brown stressed that no one could know the pain that a parent goes through when they lose a child to the streets. She remarked that if someone walked in the shoes of these parents, then that person could speak for them.

7) Carl Mitchell said that his son had been shot on August 21, 2003 and had died on August 28, 2003. He talked about how much the Chief's comments had hurt him and he said that he could not understand what had caused the Chief to use the words that he did. Mr. Mitchell remarked that he had attended the inaugural meeting on January 12, 2004 because he had hoped that he would run into the Chief so he could talk to him and tell him that he did not like this. Mr. Mitchell went on to say that he had never had to go to the jailhouse or the police station to get

any of his children. He stated that he had reared three boys ages 33, 24 and 19 and he said that his 19-year old was gone.

8) Christopher Smith, an area minister, stated that he thinks very highly of Chief Greenberg, but he was hurt by the Chief's remarks. Mr. Smith commented that the Chief's remark had been disturbing. He said that he saw this as an error in judgement and noted that he was asking for an apology from the Chief, not for his job.

No one else expressed a desire to address Council. The Mayor declared the Citizen Participation period concluded.

Mayor Riley said that he felt a duty to respond to the very nice people who spoke. He commented that his heart went out to anyone in this community or in any community that had lost a child to homicide.

He described Chief Greenberg as a very fine man, a very fine police chief and one that has worked very hard with this community. The Mayor said that the Chief had made this a safer community and had built the best police department in America. He commented that the Chief had not gone on television to make the statement. The Mayor further noted that the statement had been made during an hour-long interview with a reporter. He addressed the parents who had spoken about the deaths of their children said that the discussion had come down to the problem, not of their children or grandchildren being killed, but about the problem that many of the homicides had been as a result of drug dealers shooting drug dealers.

Mayor Riley stressed that Chief Greenberg had been talking about this, not about anything else. The Mayor had brought a copy of the Post and Courier in which the subject article had appeared. He cited several of the cases in the newspaper and expressed his concern that the Chief was being blamed for saying something or inferring something that he had not said.

Continuing, the Mayor stated that Chief Greenberg is certainly a sensitive man in terms of people and he had dedicated his life to making the community safer. He remarked that the Chief loves all people, people of all races, his race and other races, religions and backgrounds.

The Mayor again referred to the hour-long interview and reiterated that the Chief had not gone on television and had not called a press conference. He repeated that the interview was an hour-long and mentioned that he had experienced this type of interview himself. He said that those who have hour-long interviews could get a little bit mentally relaxed or at ease. He noted that is the nature of and what often happens in a lengthy conversation.

He stated that Chief Greenberg had told him that he did not recall making the statement, but he told the Mayor that he was not saying that he had not said it. The Mayor noted that Chief Greenberg was not questioning the reporter's accuracy. He again said that it had just been an hour-long interview in a kind of relaxed, yet emotional statement. He repeated that the Chief was not saying that he had not said it, but the Mayor said that he did not go into the interview intending to say it.

Mayor Riley again referred to the subject newspaper article and read "most homicides continue to involve black males killing black males, often over drugs or disputes, Greenberg said." The Mayor continued reading that the Chief had said that "this is a national trend, which the solution remains elusive" and then he said "I refuse to take responsibility every time..." and then the effectively offensive words.

The Mayor expressed his belief in Chief Greenberg and said that we all know him. Mayor Riley commented that a press conference had been held to talk about what had been said without

asking the Chief or sitting down and saying "Chief, could we discuss what you said?" The Mayor stressed that he thought that everyone could understand that most sincerely the Chief had meant every time a criminal, somebody who is doing drugs, selling drugs, is engaged with a drug deal with somebody else and there is a dispute and they take a gun and shoot each other.

Continuing, the Mayor stated that the Chief's recollection had been that the reporter's question, or at least he felt it was, you, Chief Greenberg, an African American police chief, what are you doing about this. Mayor Riley said that the Chief in his emotion, his frustration and understandably, a drug dealer shooting another drug dealer, that's beyond the means of the Chief, that's the community, that's a societal challenge.

Mayor Riley talked of speaking to someone earlier in the day about the death of dear Velvet Brown approximately one year ago. The Mayor said that he could not say how many times that Chief Greenberg had discussed this case. Mayor Riley commented that the Chief had felt this as if it had been his child. He went on to say that Chief Greenberg feels the same way about every child in the community that is killed.

The Mayor said that the Chief had been expressing an understandable outrage at the fact that many of these and what it said. He read again from the newspaper article that "most involve killing over drugs or disputes." The Mayor commented on the frustration and cited a crime that had occurred on Birdie Garrett Avenue. He said that one guy had shot another guy because they had been having a lot of arguments.

He expressed the opinion that to not respectively empathize with the Chief of Police who feels the responsibility, who has emotions like all of us and the Mayor said that as he had stated to the press, he felt that Chief Greenberg's comments had been taken somewhat out of context. The Mayor stated that Elsa McDowell with the newspaper had called him to ask how something could be somewhat out of context. She told him that it is out of context or it is not out of context.

The Mayor explained to her that he thought that something could be somewhat out of context if in an hour-long interview you are speaking about a specific problem. He noted that he and Chief Greenberg talk about this often. The Mayor said that when he asked the Chief what had changed, the Chief had responded that what had changed is that you have some of these people engaged in illegal drug activity and they have guns and they will take out their dispute with the other person involved in the illegal drug activity with violence.

Mayor Riley remarked that one of the great problems or after effects is that shootings can happen wherever. He said it could happen where the one drug dealer runs into the other drug dealer and decides to take out his dispute.

He went on to speak of a discussion with a neighborhood representative night before last. He commented when that happens in her neighborhood, then that neighborhood is victimized even though it may have been happenstance. He said that it might not be that the person lived in the neighborhood or that the illegal activity was occurring there.

Mayor Riley talked of speaking with Chief Greenberg on Sunday and the Chief had told him that he was talking about drug dealers shooting drug dealers. The Mayor said the Chief had told him that he did not apologize to them. He stated that the Chief had indicated that "I, the Chief of Police, do not apologize to drug dealers who shoot drug dealers. I can't apologize for them." The Mayor stated that he had told the Chief that he did not expect him to do so.

The Mayor noted that he had not prepared to discuss this matter tonight and said that he was trying to think of the right word. He expressed concern about taking to task a fine, prudent, effective, brave, energetic, hardworking Chief of Police who has made Charleston a national leader. He noted last year was indeed a tough year with homicides, but he said the City's overall violent crime rate is lower than cities of comparable size. He could not support taking the fine Chief of Police to task for clearly informal comments made out of frustration about the serious part the problem for which he was speaking and make it appear, which it was not, that it was a broadcast statement about innocent people. He stated respectfully that he did not believe the Chief deserved this.

Mayor Riley stated that he stands up for Chief Greenberg and stands behind Chief Greenberg. He said that he knows the Chief's heart and he knows what the Chief meant and the intentions of his words. The Mayor commented that he also knows the respect, affection and sense of duty he has for each and every law-abiding citizen of our City. The Mayor noted that he had spoken with the Chief about this a number of times and reiterated that he knew what the Chief's feeling had been.

He expressed the belief that if anyone in the Chamber had any questions about this, he/she should meet with Chief Greenberg about it. He commented that he believed it would be better to discuss matters of concern with the Chief prior to holding press conferences.

In conclusion, he said, we must take controversy and use it positively. He said "let's take this controversy that is the result of a Chief's concern and frustration about violence among criminals stemming from an illegal activity, let's take this controversy, as I talked with the fine representatives in my office today and let's use this as a community challenge." He challenged everyone in the community to stand behind Chief Greenberg and be willing to say that drug dealers are bad people. He said that everyone needed to support the Chief in this and commented that the Chief had taken a position against drug dealers perhaps without the best choice of words. The Mayor felt that this controversy could be used in a positive way, working with, fighting with a Chief of Police who is trying to make our community safer and has intestinal fortitude to be willing to stand up to drug dealers and people who would do violence in our community. And, the Mayor stressed that he believed this had been what the Chief intended and he stated his support for Chief Greenberg.

The Mayor then turned to the parents who had spoken during Citizen Participation and thanked them for coming to the meeting. He assured them that he took their comments to heart and told them that he knew the Chief had no intentions at all of saying anything that would be offensive to "you dear people, and to your family and friends and to those who have lost a loved one." He explained "the Chief had simply been trying to make a point of the disdain and condemnation that he felt that civilized people should have for those who have taken guns upon their fellow brothers and sisters and because there is a dispute over their disagreement stemming from their illegal activity, which is also very harmful to the people who become engaged in it."

Councilmember Lewis spoke of his discussion with the same reporter that had written the newspaper article. He noted that the reporter had tied him up some 25 to 35 minutes.

Councilmember Lewis said that he had become frustrated by some of the questions the reporter had asked. He commented that, of course, the reporter had not printed everything.

He referred to the Chief's comment that he could not take responsibility every time these persons kill each other. He said that it is not the Chief's responsibility, but he is the Chief of Police for



the City of Charleston. He stated his opinion that it is the Chief's job to put mechanisms in place to try to prevent murders.

Continuing, he said if the Chief cannot prevent these murders then when the crimes occur, he should have mechanisms in place for the investigation to try to find these murderers and get them off the street. Councilmember Lewis stated that he did not feel that the Chief had been doing a good job.

He spoke of the need for community meetings and said that one or two Weed and Seed officers attend just about every community meeting that he attends. He talked about the frustrations that the residents experience because of drug dealers hanging out on the corners. Councilmember Lewis stated that he could name four street corners where drug dealers could be found, but he said the team officers do not have the time to clear these corners and get them clean.

Councilmember Lewis said that the City has one of the finest police departments in the state, but he did feel everything was being done to prevent the kind of discussion that was taking place at this meeting. He felt that a better job could be done by putting more of the City's law enforcement officers in these high crime areas to clean up some these corners.

Continuing, he expressed his understanding that there would be problems in the society that we live in. He said that there would be drug dealers in the society that we live in and he believed they would always be here. He stated that he believed the drug business to be one of the biggest illegal businesses in this country. He said that the only way to clean up would be start from the White House down to the courthouse in the City of Charleston.

He went on to say that the Chief must be more sensitive to the areas where these crimes are being committed and focus his attention on this. He said that sometimes he felt that Chief did not really know what was happening on the streets of downtown Charleston.

Councilmember Lewis restated that the City has a fine Police Department with some of the best majors, captains, lieutenants and supervisors. He spoke of the response that he gets when he calls and said that they do their best to answer quickly. He commented on the need to focus special operations in the high crime areas and he said that he hoped it would not be necessary to discuss this issue again.

He referred to the Chief's comments and said that the Chief had not specified whether he was speaking about drug dealers or not. Councilmember Lewis said there had been 18 more murders in the City and drug dealers had not committed all of them. He added that blacks had not committed all of them. He disagreed with the Chief's choice of words and said that it had been a disgrace not only to the black community, but also to the City.

Councilmember Lewis commented that he had read the newspaper article four times. He felt that the Chief should address the community and that he should be making the statements that the Mayor had made. He stated that discussion was taking place because the City has a stubborn, hardheaded Chief that feels he does not owe an apology to anyone, whether it is City Council, the Mayor, or to the community. He did not agree with the position the Chief had taken in saying that he had no comment on this matter.

He restated his belief that the Chief should make a statement about the article in the newspaper. Councilmember Lewis stressed the need to work to make the community safer and to clean up the high crime areas. He felt that this could be done if everybody worked together. He said that he did not know what relationship that the Chief has with the neighborhood organization, but he said that the officers have good working relationships because they attend neighborhood

meetings. He said that the Chief needed to attend more of these meetings so he could see the frustration that some of the residents have been talking about.

He went on to explain that there are a certain number of officers on each team working each night. He spoke of the work of the narcotics division and the special operations division. He stated that he did not know how many officers are on foot patrol, but he could guarantee that 85 percent of the City's foot patrol works below Calhoun Street. He felt that the focus should be in other areas of the City.

Councilmember Lewis then referred to the four police officers that had been hurt in a recent automobile accident. He noted that these officers were all trained to work the street corners. He said that he hoped the Chief had hired four more people to replace these four injured officers. Councilmember Lewis stated that he had read the Chief's comment in the newspaper in which he said that apparently the driver of the car they were chasing was a better driver than the City's officers had been. He felt the remark had been an insult to the officers and their families. He expressed his belief that the Chief needs to think before he makes a statement.

Councilmember Lewis sometimes comments are made that hurt people. He felt that everyone should be willing to apologize or try to retract statements when they make mistakes. He said everyone makes mistakes and sometimes it is necessary to own up to those mistakes. He stated that the Chief should be man enough to make a public statement about his remarks.

Councilmember Lewis stated that the Chief not only owed this to the black community, he owed it all of the community because he is the Chief of Police for this entire City. He stated his understanding that the Chief answers to the Mayor, but he said that the Chief works for the citizens of this City and they pay his salary. He reiterated that the Chief should make a statement.

Mayor Riley commented that the Chief works for every citizen and he works his heart out for them. The Mayor said he did not think that we want to get in the business of every member of City Council trying to determine exactly what the Chief of Police is supposed to say about an accident or anything else.

Councilmember Lewis responded that he was simply saying that the Chief needs to be careful with his choice of words. He added that he should make a statement if he said something that he did not mean to say. He said that "we are not trying to run the Police Department and we are not trying to tell the Chief what to do and what not to do, that's your job because he works for you. You hired him, I did not hire him."

Mayor Riley responded that the Chief does a splendid job.

Councilmember Tinkler agreed that Chief Greenberg does a splendid job and that the City of Charleston has the finest police force in the country. He pointed out that a recent poll had named the Chief the most popular person in the community. He accepted everything the Mayor had said about the explanation and said that he understands what happens when someone is quoted out of context. He noted that a newspaper could not express the nuances or people's intentions in an article for an hour-long interview.

Continuing, he also spoke of his understanding for some of the sentiments Councilmember Lewis had expressed. He stated that the Mayor could explain the Chief's intentions and although Councilmember Tinkler accepted and totally understood the explanation, he also felt that it would be more effective if this had come directly from the Chief.

When Councilmember Tinkler commented that he was confident that the Chief had not intentionally offended anyone, the Mayor agreed. Councilmember Tinkler expressed his belief that people would better understand this if the Chief responded and he said that perhaps the Chief could provide a written statement. He agreed with Councilmember Lewis that it would be appropriate for the Chief to respond.

Councilmember Tinkler emphasized that he stands 100 percent behind Chief Greenberg. He said that the Chief had done a splendid job and he hoped that the Chief would continue to do so. He also expressed understanding that some people might have taken the Chief's remarks the wrong way. He suggested the Chief could make a simple explanation about his comments.

Councilmember Campbell said that he wished to reiterate some of the comments that Councilmember Tinkler and Councilmember Lewis had made. He expressed the opinion that if the Chief had not meant to say what he was quoted as saying, he should say so. He felt that it would better for the Chief to clarify this matter than for the Mayor to clarify it.

He then spoke about socio-economic factors beyond the control of the Police Department, which he said this Council could consider. He asked for an economic stimulus plan to be placed on the agenda of the Committee on Community Development at the appropriate time. He noted that Councilmember Lewis chairs this Committee and he felt that looking into the ideas and research could help quell the problems.

Mayor Riley thanked Councilmember Campbell and said he appreciated this suggested. He stated that it is important to make sure there is no socio-economic justification for selling drugs and shootings. The Mayor referred to his inaugural address the previous day in which he said that he works for economic opportunities, minority and business enhancements and there is much work undone.

He went on to say that it was not because of this but that we need to work harder to make sure that the ladders of success and the doors of opportunity and achievement are increasingly available to everyone. The Mayor stated that he is committed to this.

Councilmember Campbell clarified that he had not said that this is a justification for drug dealers. He noted that everyone with knowledge of sociology is aware that where there are low-income communities and poverty there will be more crime. He said that unless this issue is attacked by Council, it will not be dealt with.

Councilmember Gilliard noted that he concurred with the comments that Councilmembers had made. He said that he did not have a problem with the Chief's work and said that he felt the Chief does a fine job and excellent work. He commented that he did have a problem with the statements the Chief had made in the past.

He talked about his upbringing and his understanding that when you wrong somebody you should say that you are sorry. He noted as an elected official he has made statements that he has had to retract. He spoke of the need to move forward and expressed his concern about crime. He talked about people with drugs continuing to come into the community and guns that are sold on the street illegally.

Councilmember Gilliard commented that even as Council sat discussing this matter, crime was being committed. He said that he did not want to sound like Nostradamus but unless we come to a quick, precise conclusion to this issue, then the drug dealers, the criminal elements in our community will win day in and down out. He stated that we were now being distracted and we were waiting on one person to be heard. He stated that person should be heard. He remarked if

he was in that person's shoes, he would walk through the door and do what he had to do for the sake of the good. He commented that he would apologize if he had offended anybody and then we could work forward.

Councilmember Gilliard spoke of working with Chief Greenberg on many issues in his community and told of the Chief helping to close down drug houses, put criminals behind bars and helped in charitable programs. He stated that he would stand to that any day against anybody, but he said that he respectfully hoped the Chief would come forward and make a statement.

Continuing, he spoke of the press conference and said on that day he had asked Councilmember Campbell and Councilmember Lewis if they had tried to contact the Chief. He noted that he had tried to contact the Chief over six times, but the Chief could not be reached for comment. He stated that public sentiment had forced them to take position as leaders. He wanted everyone to understand that even without that public sentiment they would have done it anyway.

Councilmember Gilliard referred to the three parents that had addressed Council as fine mothers and a fine father. He then spoke of the newspaper article and noted that the majority of faces in the article had been African Americans. He said that was the reason for the statements African Americans had made in this Chamber tonight.

As a Councilmember and as a person, Councilmember Gilliard said that he would never buy into black on black crime. He stressed that he wanted to go on record that he could not buy into black on black crime because he does his research. He noted that he comes from what has previously been called the ghetto but he said that back then the village used to raise the people. He went on to say that using the term black on black crime alienates other cultures. He suggested that it takes a pilot to get the drugs into this country. He remarked that young, black teenagers with their caps twisted and baggy pants do not fit the description to do that. He said that you have to go to Yale or Harvard and aviation school to qualify for a pilot's license. He stated that when that Caucasian, be it male or female, it takes an aircraft to fly to Colombia to fly the drugs back to our shores. He commented that they then meet the distributors and the distributors go to the marketable community, which is the African American community to distribute the drugs. He further explained that the runners then come to get the drugs from the distributors to go into the community to distribute the drugs. He said the community reaps the negative benefits of this.

Councilmember Gilliard remarked that the crime started when that Caucasian, that pilot landed in Colombia. He reiterated that the crime started there.

Continuing, he spoke of pawnshops coming into black communities and selling illegal weapons to young black teenagers. He wanted everyone to understand that the pawn shop owner would not fit the description of a young black male or that of black entrepreneurship. He asked rhetorically how anyone could refer to that as black on black crime.

Councilmember Gilliard said that he could show an article about the arrest of five Caucasians that had attended Yale University who were building a submarine in Colombia to bring four tons of cocaine back to the shores of America. He again questioned how that could be considered black on black crime. He stressed that this term alienates white people, his white brothers and sisters, the Jewish people and the Italian people as if it is not their problem, as if it is just a problem for black people.

He referred to examples of massacres such as the one that had occurred at Columbine High School in Colorado and the unbomber. He remarked that 30 to 40 people are taken out at one time in crimes like these. He noted that a black person would never refer to this as white on white crime and white on white crime is a problem.

Councilmember Gilliard commented that the term "drive-by" had started during the Roaring 20s, but it has become the mindset that "drive-by" refers to crime in a black community. He stated that he could not accept that and again stressed his strong belief that there is no such thing as black on black crime. He strongly stated his position that "crime is crime is crime." He commented that "what affects their community will affect your community."

Continuing, Councilmember Gilliard said that when a white person brings the drugs to our shores and distributes them to the black people, the crime started in that foreign country. He commented that unless we start seeing it as such, we will never solve the problem. He told of writing a letter to the governor explaining this to him, and he said that people would not want to know what the governor's response had been.

He spoke of attending funerals and said that he like Councilmember Gallant and many other Councilmembers were tired of this happening. Councilmember Gilliard said that everyone needed to look at the big picture. He stated that it was not Chief Greenberg and explained that the big picture includes illegal drugs, the school dropouts, the overcrowding of our prisons. Councilmember Gilliard remarked that he wanted to stay focused for the year 2004 on the big picture. He repeated that he would not be using the term black on black crime because he did not think that it exists.

Councilmember Gallant told of his meeting with one of the mother's after her son had been killed. He recalled the young man's funeral in Andrews, SC. He also spoke of the death of the other mother's son and told of being the chaplain the night of this young man's death. He recalled that this mother had been out of town when the crime occurred and he was the chaplain that had notified the father.

He referred to the subject newspaper article and said the very day after it had appeared in the paper he had to get beyond it because a young man had been shot in the back on Norman Street that night. He remembered that a young man, a member of his church was shot in the chest the very next night under the Cooper River Bridge as two young boys approached him and robbed him.

Councilmember Gallant shared the memory of arriving on the scene to have this young man tell him "Pastor, I'm so glad you're here. I've been shot in the chest." Councilmember Gallant went to the hospital with the young man.

Then, he said, the very next night he was called out again because two young men had been shot on the corner of America and Mary Streets. He noted that one of them had been shot three times in the leg and the other one had been shot with buckshot four times in the upper torso.

Continuing, Councilmember Gallant said a young man was shot the very next night and he had taken himself to the hospital.

He went on to say that these four shootings occurred right after the Chief had made his comment. Councilmember Gallant stated that he had to get beyond the comment because the problem still existed and shootings were still taking place. He referred to the four shootings and spoke again about the fact that these shootings had occurred on four back to back nights after the article appeared in the newspaper.

Councilmember Gallant expressed his sensitivity to what these parents had gone through. He talked about the 17 kids in his church that had died in six years because of violence and said that guns had killed all of them.

He remembered that Councilmember Campbell had held a "Stop the Violence" meeting in the park one time. He also voiced his understanding that the Mayor and members of Council had done a lot of things to address this issue. He spoke of the difficulty getting people to come out in the community and commit their time to bring together the pastors and the citizens. He did not think that this effort had failed, but he pointed out that sometimes people do not want to be involved.

Councilmember Gallant stated that he had cried with a detective over the case of Mrs. Brown's son because the kids knew who had committed the crime, but nobody would speak up or come forward and tell the detectives who had done it. He described his feelings of anger when this happened. He turned to Mr. Mitchell and said the same thing had occurred in the murder of his son.

He talked about the people that had attended the funerals for these young people knowing who had killed them but refusing to say who it was. He told how they had looked into the faces of the parents and hugged him knowing who had shot their children.

Councilmember Gallant spoke again about crying over this because these young people know who these murderers are and some of these murderers continue to walk the streets because no one will tell on them. He stressed that these murderers had killed multiple people and told of his frustration when he must tell a parent about the death or the shooting of a child.

He expressed to everyone his belief that this is a Charleston problem. He said that he could not beat up the Chief because the Bible tells him to forgive. Councilmember Gallant noted that he must forgive because he does not want to be judged by the same measure that he would be judging.

Councilmember Gallant also spoke of the music that is sold to young people. He agreed with remarks that had been made in Citizen Participation about the effect of this music and said that this is a national problem, not a Charleston problem. He commented that somewhere down the road America would have to stand up and tell the record industry that we will no longer allow that kind of stuff to be said. He also talked about violent games, videos and toys that show powerful machine guns firing on young people. He said that this kind of information has been pumped into our young people and something must be done.

He remarked that he was sorry that the Chief's comment had spawned this, but he said his reaction would be to reach out to the children in this community at a young age with the hope that some of this could be stopped.

He turned to the parents that had spoken about the deaths of their children and explained that his frustration did not come from the Chief's words. He said that his frustration comes from seeing them in this Chamber as they sit in this room while the people in community know how their loved ones had been taken away from them. He remarked that these people are willing to visit in these parents' homes and will not give out the information.

Councilmember Gallant expressed the hope that they could all come together as a group of strong people and get beyond this. He stated his understanding that the comments would be dealt, but he said the truth of it is the four shootings that took place after the comments were made and that continue to keep on going and keep on going.

Councilmember George expressed his opinion that Councilmember Gilliard had probably put this as eloquently as he had ever heard. He said that we can never accept in society, and we should never accept as Councilmembers in Charleston, that there is a black on black crime. Councilmember George stated that it is a crime against every one of us and to in any way infer that it is a black on black crime is unacceptable.

He noted that the Mayor had said that we basically should find some good in this and work with the good. He said he felt recognizing that there is no such thing as black on black crime should be what is found in this. He also expressed concern about videos that showed cars flipping and people using machine guns had been mentioned earlier and asked what idiot would breed that kind of activity in children in our communities.

Councilmember George said that the buck stops at every one of our desks, at every dinner table, at every church pew, in every classroom, etc. He stated that we could not back away just because it does not happen in our community because it is our bigger community. He said that any of that crime at any level is unacceptable.

He spoke of recent national statistics that had indicated our City is similar to other southern cities while in so many categories of crime we are almost twice the national average. He said that was really just unacceptable and reiterated that there is no such thing as black on black crime. He commented that the minute we buy into that we accept it and we tolerate it and we allow that to poison this entire community. He stressed that we should never accept it, never.

Continuing, Councilmember George said we must work together and come through this. He noted that words had been said that would hopefully never be said again and hopefully nobody here would ever say them. He commented that it was time to put it behind us and move on. He expressed his opinion that we should come out of this not caring what crime is on who, that it is just too much crime and that is just not acceptable.

Councilmember Shirley noted that he had heard from former City Councilmember Maurice Washington and he said that Councilmember Washington had agreed with what some of the other Councilmembers had somewhat alluded to.

Continuing, Councilmember Shirley commented that he had said on talk radio that he wished the Chief had not used the words that he had used. He expressed his understanding of the remarks the Mayor had made and the frustration in Councilmember Gallant's remarks.

He went on to say that you could not have a namby-pamby in charge of a police department when murders are going on. He also stated his understanding of the need for sensitivity as well as the insensitivity that could come from seeing things on the street. Councilmember Shirley said that former Councilmember Washington would like for the Chief to publicly address this matter.

Councilmember Shirley noted that it was unfortunate and ironic that criminals had forced Council to sit here for over hour, not at each other's throat, but almost agreeing with Councilmember Gilliard's remarks. He commented that Councilmember George had almost taken the words out of his mouth. He spoke of the need to move on and said that he thought it would be good if the Chief addressed this central issue.

He expressed his opinion that the City could not afford to be without somebody who is tough on crime. Councilmember Shirley stated that he had missed very few police inspections during his 14 years in office and expressed his pride in the City's Police Department. He restated his feeling that it was time to move on.

Councilmember Evans commented that her heart went out to the parents who had come before Council at this meeting. She expressed her sympathy for the loss of their children and she said that she knew her colleagues shared this.

She also spoke of the need to support the Police Department in the hard work that they do and the bravery that they show. She talked of the need for the commitment and understanding that no crime in our community would be tolerated. She noted that the general sense that she had gotten from this discussion had been one of appreciation for the people who had come to Council to make them aware of some of the victims of crime.

Councilmember Gallant rose and addressed the parents saying that he wanted to assure them that this was not the first time that Council had discussed this issue of crime. He said that this Council had felt the pain for these parents a long time ago. He wanted them to know that this Council had not just sat back and not thought about this.

Continuing, he thanked them for coming out to this meeting and opening themselves up again. He wanted them to know as a minister and as a member of this body that this Council is made up of a very sensitive body of people.

Mayor Riley thanked Councilmember Gallant for what he had said and for saying it so beautifully. The Mayor then turned to the parents and said that he could guarantee them that every time there is a serious crime in our community, and certainly every time there is a homicide, the call that Chief Greenberg dreads is the one to him.

He commented that he could hear the sound of sorrow, defeat and disappointment in the Chief's voice when he tells him about the crime that has occurred. The Mayor noted that a lot of good had been said at this meeting and it had not been on Council's agenda. He thanked all of his colleagues for their thoughtful efforts in this matter.

The Mayor explained that although the families feel this more than anyone, he knew that the Chief feels deeply about this. He spoke of the importance of standing up against this violence. He cited several examples from the newspaper article, which involved drug dealers shooting drug dealers. He also referred to a crime involving drugs and said that the police had a suspect, but they had not been able to get the needed cooperation from the community. He spoke of a shooting on Grove Street and said that drugs had been found in that person's clothing. The Mayor noted that the police were still looking for the suspect.

Mayor Riley expressed his belief that this was a time to recommit ourselves as a community. He stressed that the criminal is the enemy and spoke of the need to resolve to work hard together and with the Chief, our community and with our neighborhoods. He talked of Chief Greenberg's frustration that there are people who know who is responsible for the death of Velvet Brown, but they will not come forward.

The Mayor then thanked everyone for coming and told them that they are and would continue to be in our thoughts and prayers.

Councilmember Waring remarked that he had not intended to speak about this matter until he had the opportunity to talk with the Chief. However, after listening to the comments, he had decided that it was imperative for him to say something about this. He noted that he had known Mrs. Halyard from the time she was a child and expressed his sorrow saying to her that he did not know about the death of her son. He turned to Mrs. Halyard and told her that his heart went out to her. He commented that although he did not know Mrs. Brown he understood that she had also suffered the loss of her child.



He went on to say that we are dealing with a force that is worse than gangsters and said that it might be preferable to deal with gangsters. He explained that gangsters have bosses, but druggers make their own decisions and they do whatever they feel that they need to do. He spoke of a meeting that Councilmember Gilliard had held in Washington Park following the killing of Velvet Brown. He talked about knowing Ms. Brown from her early childhood and remarked that this young girl certainly could not be called a druggie.

Councilmember Waring said there had been an enormous crowd at the meeting and Councilmember Gilliard had called on him to speak. He said that there had been a lot of noise at the meeting, but he had been able to quell the crowd by saying that this problem belongs to all of us. He talked of telling the community that they needed to become more police friendly. He cited the son or daughter who gives the parent money to pay the rent and said that the parent must ask where the money came from. He talked about the parent that has no income and how that might cause the parent to refrain from doing what he/she knows spiritually and religiously must be done.

He then told of attending the funeral of a police officer. He pointed out that people involved in drugs do not care who they kill. He said their goal is to satisfy their economic needs and he described these criminals as nothing but parasites on our community. He stressed that citizens support these parasites when they know what has happened and they refuse to report it to the police.

At the funeral of the police officer, Councilmember Waring stated that he had never seen so many police officers in his life. He commented that he had been touched to see the tears coming from the eyes of a fellow police officer at the loss of his buddy, his friend that rode with him and with whom he had done everything. He noted that it had been a black police officer crying over the loss of the white police officer in the casket. He stated that it did not matter that the officer was black or white; it mattered that Charleston had lost a police officer.

Councilmember Waring remarked that we must become level in mind. He expressed understanding for those who had lost loved ones and understanding for the Chief's feelings. He wondered why elected officials and public officials are held to such a standard that if they say phooey someone runs to the media about it. He commented that in all fairness any number of people in the community could have made the same statement and nothing else would have ever been heard about it.

He asked everyone to realize that crime does not belong to the black community or the white community. He said that this issue must be addressed by our community. He told of a candidate that had run for his seat on Council. He said that person had told him that he would be tough on black on black crime. Councilmember Waring said he had asked the person what he planned to do about white on white crime, white on black crime or black on white crime. He noted that the candidate had been unable to answer the question.

Councilmember Waring then stated that he wanted everyone to know that he likes Chief Greenberg, but he felt that a statement from the Chief would be the only way to quell this. He expressed understanding that a minister might even curse on occasion, but he felt that people in official capacities could not do this.

He also talked about the media and how this makes a good story. He noted in some cases reporters do not care how or where they get the story, they just want to get it. Councilmember Waring said that he had wanted to discuss this with the Chief, but Chief Greenberg was out of

town. He reiterated his opinion that a statement from the Chief would quell this situation and said that it pained him that his Chief was involved in this, but he is a human being just like the rest of us.

There were no further questions or comments of Council on this matter.

Next, City Council received the following report of the Committee on Ways and Means:

*The Committee on Ways and Means Reports:* 1/13/04

**TO THE MAYOR AND COUNCILMEMBERS, THE CITY COUNCIL OF CHARLESTON:**

The Committee on Ways and Means recommends that City Council act on each of the following matters as stated below:

1.) **HOMEOWNERSHIP INITIATIVE, PHASE II: DESIGN SERVICES - \$24,500 - MCMILLIAN SMITH & PARTNERS, PLLC - ACCOUNT #051132-52238:**

The Committee on Ways and Means recommends City Council award, and authorize the Mayor to sign, a contract in the amount of \$24,500 to McMillian Smith & Partners Architects, PLLC for the rehabilitation of two (2) properties and one (1) new construction. The contract amount includes reimbursable expenses not to exceed \$500. Funds will come from account #051132-52238.

2.) **BROWNFIELDS PROGRAM: CONTRACT EXTENSION - CONCURRENT TECHNOLOGIES CORPORATION:**

The Committee on Ways and Means recommends City Council approve, and authorize the Mayor to sign, a contract extension with Concurrent Technologies Corporation, Environmental Consultants, for the Brownfields Program. The extension would allow an additional six-months to finalize all aspects of the scope of service. Councilmember Gallant did not vote on this matter, and his *Statement of Potential Conflict of Interest* is on file in the office of the Clerk of Council in the meeting folder of this date.

3.) **BROWNFIELDS CLEANUP REVOLVING LOAN FUND: CONTRACT EXTENSION - CONCURRENT TECHNOLOGIES CORPORATION:**

The Committee on Ways and Means recommends City Council approve, and authorize the Mayor to sign, a contract extension with Concurrent Technologies Corporation for the administration of the Brownfields Cleanup Revolving Loan Fund (BCRLF). This contract would allow for an extension of the time of performance. The original contract was approved by City Council in March 2001 in the amount of \$25,000 equating to \$8,333 each year for a three-year period.

Councilmember Gallant did not vote on this matter, and his *Statement of Potential Conflict of Interest* is on file in the office of the Clerk of Council in the meeting folder of this date.

4.) **LAVINGTON ROAD DRAINAGE IMPROVEMENT PROJECT: CONTRACT AWARD - \$49,725 - R. H. MOORE COMPANY - ACCOUNT #050335-52240:**

The Committee on Ways and Means recommends City Council award, and authorize the Mayor to sign, a contract in the amount of \$49,725 with R. H. Moore Company, Inc. to construct drainage improvements at Lavington Road. Funds will come from account #050335-52240.

5.) **FACILITY AGREEMENT FOR THE USE OF SILCOX GYM FOR THE SOCCER LEAGUE - \$2,025 - COLLEGE OF CHARLESTON - ACCOUNT**

**#511300-52206:** The Committee, based on the recommendations of the Committee on Real Estate, recommends City Council approve, and authorize the Mayor to sign, a Facility Agreement in the amount of \$2,025 with the College of Charleston for the use of Silcox Gym for the soccer league. Funds will come from account #511300-52206. The City uses the Silcox

Gym at the College of Charleston for an indoor soccer league from January to March. The cost of the agreement is paid for from fees collected by the participants.

6.) **TRANSFER OF 13, 15, 30 AND 42 H STREET, 30 F STREET AND 35½ F STREET TO HABITAT FOR HUMANITY:** The Committee, based on the

recommendations of the Committee on Real Estate, recommends City Council give first reading to the following bill:

*“An ordinance rescinding Ordinances #1997-292, #1997-293, #1997-294 and #1997-295; and authorizing the Mayor to execute the necessary documents to enter into that certain Transfer Agreement between the City of Charleston and Charleston Habitat for Humanity for the conveyance of the following properties: (1) 13 H Street, bearing TMS #463-16-03-019; (2) 15 H Street, bearing TMS #463-16-03-016; (3) 30 H Street and 35 F Street, bearing TMS #463-16-03-058; (4) 42 H Street, bearing TMS #463-16-03-065; and (5) 35½ F Street, bearing TMS #463-16-03-123, said properties being located in the City and County of Charleston, State of South Carolina, said Transfer Agreement being marked as Exhibit A, attached hereto, and incorporated by reference herein.”*

These properties represent lots where Habitat for Humanity has built homes. The proposal is to transfer the properties to Habitat, and in turn Habitat would provide a clear title to the property owners.

7.) **ANNEXATIONS:**

1. 2346 Twin Oaks Drive (26.19 acres) (TMS #355-13-00-001 and 355-09-00-079, 080, 092)

2. 1634 Wappoo Road (0.17 acres) (TMS #351-12-00-011)

The Committee, based on the recommendations of the Committee on Real Estate, recommends City Council give first reading to the following bills:

*“An ordinance to provide for the annexation of 2346 Twin Oaks Drive (26.19 acres) (TMS #355-13-00-001, 355-09-00-079, 080, 092), St. Andrews Parish, Charleston County, to the City of Charleston and includes all marshes, public waterways, and public rights-of-way, shown within the area annexed upon a map attached hereto and make it part of District 2.” “An ordinance to provide for the annexation of 1634 Wappoo Road (0.17 acres) (TMS #351-12-00-011), St. Andrews Parish, Charleston County, to the City of Charleston and includes all marshes, public waterways, and public rights-of-way, shown within the area annexed upon a map attached hereto and make it part of District 7.”*

The proposal for the annexation of 2346 Twin Oaks Drive is to subdivide the property and create a subdivision of between 50 and 60 lots. 1634 Wappoo Road is a single-family residence.

Councilmember George did not vote on the annexation for 2346 Twin Oaks Drive, and his *Statement of Potential Conflict of Interest* is on file in the office of the Clerk of Council in the meeting folder of this date.

LOUIS L. WARING, Chair HENRY B. FISHBURNE, JR.

DEBORAH MORINELLI JAMES LEWIS, JR.

JIMMY S. GALLANT, III WENDELL G. GILLIARD

YVONNE D. EVANS PAUL E. TINKLER

LARRY SHIRLEY ANNE FRANCES BLEECKER

G. ROBERT GEORGE JOSEPH P. RILEY, JR., Mayor

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The Report from the Committee on Ways and Means included two (2) annexation petitions. The following list of properties requested annexation into the City of Charleston:

1) Property known as 2346 Twin Oaks Drive (26.19 acres) (TMS #355-13-00-001, 355-09-00-079, 080, 092), St. Andrews Parish, Charleston County. The petition was signed by Jerry H. Pettus, President, Eastern Enterprise Corporation.

2) Property known as 1634 Wappoo Road (0.17 acres) (TMS #351-12-00-011), St. Andrews Parish, Charleston County. The petition was signed by Thomas M. and Joanna C. Bryant. On motion of Councilmember Evans, seconded by Councilmember Waring, Council voted to adopt the report of the Committee on Ways and Means, which included giving first reading to a bill, accepting two annexation petitions and giving first reading to bills to annex the subject property. The Clerk of Council noted for the record that she was in receipt of *Statements of Potential Conflict of Interest* from Councilmember Gallant and Councilmember George. Councilmember Gallant did not vote on the matters pertaining to the Brownfields Program Contract Extension or the Brownfields Cleanup Revolving Loan Fund. Councilmember George did not vote on the matter pertaining to the annexation of 2346 Twin Oaks Drive (26.19 acres) (TMS #355-13-00-001, 355-09-00-079, 080, 092).

First reading was given to bills entitled:

AN ORDINANCE RESCINDING ORDINANCES #1997-292, #1997-293, #1997-294 AND #1997-295; AND AUTHORIZING THE MAYOR TO EXECUTE THE NECESSARY DOCUMENTS TO ENTER INTO THAT CERTAIN TRANSFER AGREEMENT BETWEEN THE CITY OF CHARLESTON AND CHARLESTON HABITAT FOR HUMANITY FOR THE CONVEYANCE OF THE FOLLOWING PROPERTIES: (1) 13 H STREET, BEARING TMS #463-16-03-019; (2) 15 H STREET, BEARING TMS #463-16-03-016; (3) 30 H STREET AND 35 F STREET, BEARING TMS #463-16-03-058; (4) 42 H STREET, BEARING TMS #463-16-03-065; AND (5) 35½ F STREET, BEARING TMS #463-16-03-123, SAID PROPERTIES BEING LOCATED IN THE CITY AND COUNTY OF CHARLESTON, STATE OF SOUTH CAROLINA, SAID TRANSFER AGREEMENT BEING MARKED AS EXHIBIT A, ATTACHED HERETO, AND INCORPORATED BY REFERENCE HEREIN. AN ORDINANCE TO PROVIDE FOR THE ANNEXATION OF 2346 TWIN OAKS DRIVE (26.19 ACRES) (TMS #355-13-00-001, 355-09-00-079, 080, 092), ST. ANDREWS PARISH, CHARLESTON COUNTY, TO THE CITY OF CHARLESTON AND INCLUDES ALL MARSHES, PUBLIC WATERWAYS, AND PUBLIC RIGHTS-OF-WAY, SHOWN WITHIN THE AREA ANNEXED UPON A MAP ATTACHED HERETO AND MAKE IT PART OF DISTRICT 2.

AN ORDINANCE TO PROVIDE FOR THE ANNEXATION OF 1634 WAPPOO ROAD (0.17 ACRES) (TMS #351-12-00-011), ST. ANDREWS PARISH, CHARLESTON COUNTY, TO THE CITY OF CHARLESTON AND INCLUDES ALL MARSHES, PUBLIC WATERWAYS, AND PUBLIC RIGHTS-OF-WAY, SHOWN WITHIN THE AREA ANNEXED UPON A MAP ATTACHED HERETO AND MAKE IT PART OF DISTRICT 7.

The next matter before Council was five bills up for second reading.

Councilmember Tinkler moved for the five (5) bills to receive second reading. Councilmember Evans seconded the motion.

Without objection and at the request of Councilmember George, the bill pertaining to the issuance and sale of a General Obligation Bond Anticipation Note of the City of Charleston, South Carolina in the principal amount of not exceeding \$3,569,500 (Item H-3 on the agenda) was separated from the issue.

Council considered this bill up for second reading first.

It passed second reading on motion of Councilmember Evans and third reading on motion of Councilmember Bleeker. On the further motion of Councilmember Gallant, the rules were suspended and the bill was immediately ratified as:

**RATIFICATION NUMBER**

**2004-01**

AN ORDINANCE TO PROVIDE FOR THE ISSUANCE AND SALE OF A GENERAL OBLIGATION BOND ANTICIPATION NOTE OF THE CITY OF CHARLESTON, SOUTH CAROLINA IN THE PRINCIPAL AMOUNT OF NOT EXCEEDING \$3,569,500, THE PROCEEDS OF WHICH SHALL BE EXPENDED TO ACQUIRE AN UNDIVIDED PROPORTIONATE INTEREST IN REAL ESTATE LOCATED AT 6600 LEEDS AVENUE CONSISTING OF THE CHARLESTON AREA REGIONAL TRANSPORTATION AUTHORITY'S MAINTENANCE FACILITY; TO PROVIDE FOR THE PAYMENT THEREOF; AND OTHER MATTERS RELATING THERETO.

BE IT ORDAINED BY THE CITY OF CHARLESTON, SOUTH CAROLINA, IN MEETING DULY ASSEMBLED:

As an incident to the enactment of this Ordinance and the issuance of the note provided for herein, the City Council of the City of Charleston, South Carolina (hereinafter called the City Council), the governing body of the City of Charleston, South Carolina (hereinafter called the City), finds that the facts set forth herein exist and the statements made with respect thereto are true and correct.

WHEREAS, by virtue of the Municipal Bond Act (Article 5, Chapter 21, Title 5 Code of Laws of South Carolina 1976, as amended), as amended and continued by Section 11-27-40 of the Code of Laws of South Carolina 1976, as amended (the Municipal Bond Act, as so amended and continued, being hereinafter called the Enabling Act), the City Council is authorized to issue general obligation bond notes of the City for any purpose which is a public purpose and a corporate purpose of the City in any amount not exceeding the constitutional debt limit applicable to the City; and

WHEREAS, pursuant to the authorizations of Article X of the South Carolina Constitution and the Enabling Act, the City Council desires to obtain funds for the purpose of defraying a portion of the costs, including costs of issuance, of acquiring, together with certain other governmental entities, the Charleston Area Regional Transportation Authority's Leeds Avenue Maintenance Facility (collectively, the Project); and

WHEREAS, to obtain such funds the City intends to issue its not exceeding \$3,569,500 General Obligation Bond Anticipation Note (the Note).

NOW, THEREFORE, on the basis of the foregoing authorizations and for the purpose of raising the sum of not exceeding \$3,569,500 to be expended for the purposes set forth above, the City Council enacts this Ordinance to effect the issuance and sale of the City's not exceeding \$3,569,500 General Obligation Bond Anticipation Note.

**ARTICLE I**

## **DEFINITIONS**

### **Section 1**                      **Defined Terms.**

The terms defined in this Article (except as herein otherwise expressly provided or unless the context otherwise requires) for all purposes of this Ordinance shall have the respective meanings specified in this Article.

"Clerk" shall mean the Clerk of Council of the City, or in her absence, the acting Clerk of Council.

"City" shall mean the City of Charleston, South Carolina, a body politic and corporate and a municipal corporation under the laws of the State of South Carolina.

"City Council" shall mean the City Council of the City and any successor governing body of the City.

"Code" shall mean the Internal Revenue Code of 1986, as amended.

"Construction Fund" shall mean the Note Construction Fund established pursuant to the provisions of Section 2 of Article IV hereof.

"Enabling Act" shall mean the Municipal Bond Act (Article 5, Chapter 21, Title 5, Code of Laws of South Carolina 1976, as amended), as amended and continued by Section 11-27-40 of the Code of Laws of South Carolina 1976, as amended.

"Mayor" shall mean the mayor, or in his absence, the mayor pro tempore, of the City. "Note" shall mean the General Obligation Bond Anticipation Note of the City authorized to be issued hereunder in the principal amount of not exceeding \$3,569,50.

"Ordinance" shall mean this Ordinance as from time to time amended or supplemented.

"Original Purchaser" shall mean the first purchaser of the Note from the City.

"Private Business Use" shall mean use directly or indirectly in a trade or business carried on by a natural person or in any activity carried on by a person other than a natural person, excluding, however, use by a state or local governmental unit and use as a member of the general public.

"Project" shall mean the acquisition, together with certain other governmental entities, of the Charleston Area Region Transportation Authority's Leeds Avenue Maintenance Facility. Section 2      General Rules of Interpretation.

Except as otherwise expressly provided or unless the context otherwise requires, words importing persons include firms, associations, and corporations and the masculine includes the feminine and neuter.

## **ARTICLE II**

### **ISSUANCE OF NOTE**

#### **Section 1**                      **Authorization of Note.**

Pursuant to the provisions of the Enabling Act and for the purposes set forth above, there shall be issued not exceeding \$3,569,50 General Obligation Bond Anticipation Note of the City of Charleston. The Note shall be originally dated the date of its delivery and shall be in fully-registered form, and shall be payable, both principal and interest, one year from the date of delivery of the Note.

Section 14 of Article X of the South Carolina Constitution provides that a city may incur general obligation indebtedness without referendum if such indebtedness, together with then outstanding indebtedness subject to the limitation, does not exceed 8% of the assessed value of all taxable property in the City. The final assessed value of all taxable property for the fiscal year ended December 31, 2002, in the City is \$488,880,855. Eight percent of this sum equals \$39,110,468.

Outstanding indebtedness subject to the 8% limit is \$16,853,840. Consequently the City may incur the Note without referendum.

Section 2 Note Not Prepayable.

Unless permitted by the Original Purchaser, the Note shall not be subject to prepayment by the City prior to maturity.

Section 3 Interest Rate on Note.

The Note shall bear such rate of interest, payable as maturity or earlier prepayable, as shall, at the sale of the Note, reflect the lowest net interest cost to the City, at a price of not less than par and accrued interest to the date of delivery, but any premium offered must be paid in cash as a part of the purchase price.

For the purposes of this Section, interest cost shall mean the aggregate of interest on the Note from the dated date of the Note, less any sum named by way of premium.

Section 4 Medium of Payment.

Both the principal of and interest on the Note shall be payable in any coin or currency of the United States of America which is, at the time of payment, legal tender for the payment of public and private debts.

Section 5 Place of Payments.

Principal of and interest on the Note, when due, shall be payable at the principal office of the Original Purchaser.

Section 6 Execution of Note.

The Note shall be executed in the name of the City by the Mayor by his manual signature, and attested by the Clerk, by her manual signature, and the seal of the City shall be impressed or reproduced on the Note. The Note shall be executed in respect of any manual signature by the person or persons holding office when the Note is ready for delivery. The execution of the Note in this fashion shall be valid and effectual notwithstanding changes in the personnel of any of the above offices subsequent to their execution. No authentication of the Note is required.

Section 7 Form of Note.

(a) The Note shall be issued in fully registered form, and all principal and interest due thereunder shall be payable only to the registered owner thereof. The form of the Note shall be substantially as set forth in Exhibit A attached hereto and made a part of this Ordinance. (b) A copy of the approving legal opinion to be rendered may be attached to the back of the Note.

Section 8 Mutilated, Lost or Stolen Note.

In the event the Note is mutilated, lost, stolen or destroyed, the City may execute a new Note of like date, maturity, interest rate, as that mutilated, lost, stolen or destroyed; provided that, in the case of any mutilated Note, such mutilated Note shall first be surrendered to the City, and in the case of any lost, stolen or destroyed Note, there shall be first furnished to the City evidence of such loss, theft, or destruction satisfactory to the City, together with indemnity satisfactory to them, provided that in the case of a holder which is a bank or insurance company, the agreement of such bank or insurance company to indemnify be sufficient. In the event the Note shall have matured, instead of issuing a duplicate Note, the City may pay the same without surrender thereof. The City may charge the holder or owner of such Note with its reasonable fees and expenses in this connection.

**ARTICLE III**

**SECURITY FOR NOTE**

Section 1 Pledge of Full Faith, Credit, and Taxing Power.

For the payment of the principal of and interest on the Note when due, the full faith, credit, and taxing power of the City are irrevocably pledged, and there shall be levied and collected in the same manner as other City taxes are levied and collected, a tax, without limit, on all taxable property in the City, sufficient to pay the principal and interest of the Note when due, and to create such sinking fund as may be necessary therefor. It is specifically provided, however, in lieu of the foregoing pledge, principal and interest on the Note may be paid from the proceeds of the sale of the Project or the proceeds of the general obligation bond in anticipation of which the Note is issued.

**ARTICLE IV**

**SALE OF NOTE; DISPOSITION OF PROCEEDS OF SALE** Section

1 Sale of Note.

The Note shall be sold at not less than par and accrued interest to the date of delivery. Bids shall be received until such time and date at such place as may be selected by the Mayor. The form of Notice of Sale, and the conditions of sale, shall be substantially those set forth in Exhibit B attached hereto and made a part and parcel hereof.

Section 2 Disposition of Proceeds of Sale of Note.

- (a) There is hereby created a separate account to be named the Note Construction Fund" (the Construction Fund) to be held by the Chief Financial Officer of the City.
- (b) The proceeds derived from the sale of the Note issued pursuant to this Ordinance shall be deposited with the Chief Financial Officer of the City and shall be expended and made use of by the City Council as follows:
  - (i) Any premium shall be applied to the payment of the first installment of principal of the Note; and
  - (ii) The remaining proceeds shall be deposited in the Construction Fund to be used to defray the cost of issuing the Note and to pay the cost of the Project.
- (c) Amounts in the Construction Fund shall be disbursed for costs and expenses of the Project upon the filing in the official records pertaining to the Construction Fund of a certificate of the City describing such disbursement, setting forth the portion, if any, of the Net Proceeds of the Note to be used for a Private Business Use or to make or finance a loan to other than a state or local governmental unit and certifying that there has been compliance with Sections 3 and 4 of Article V hereof relating to the Private Business Use limitation and the private loan limitation.

**ARTICLE V**

**TAX EXEMPTION OF NOTE**

Section 1 Exemption from State Taxes.

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

Section 2 Federal Guarantee Prohibition.

The City shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Note to be "Federally guaranteed" within the meaning of Section 149(b) of the Code and the Regulations promulgated thereunder.

Section 3 Private Business Use Limitation.



The City shall assure that (i) no portion of the proceeds of the Note in excess of ten percent (10%) of the proceeds of the Note is used for Private Business Use if, in addition, the payment of more than ten percent (10%) of the principal or ten percent (10%) of the interest due on the Note during the term thereof is, under the terms of the Note or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for a Private Business Use or in payments in respect of property used or to be used for a Private Business Use or is to be derived from payments, whether or not to the City, in respect of property or borrowed money used or to be used for a Private Business use; and (ii) in the event that both (a) in excess of five percent (5%) of the proceeds of the Note are used for a Private Business Use, and (b) an amount in excess of five percent (5%) of the principal or five percent (5%) of the interest due on the Note during the term thereof is, under the terms of the Note or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for such Private Business Use or in payments in respect of property used or to be used for such Private Business Use or is to be derived from payments, whether or not to the City, in respect of property or borrowed money used or to be used for such Private Business Use, then such excess over such five percent (5%) of the proceeds of the Note used for a Private Business Use shall be used for a Private Business Use related to the governmental use of the facilities financed with the proceeds of the Note.

Section 4 Private Loan Limitation.

The City shall assure that no portion of the proceeds of the Note in excess of five percent (5%) of the net proceeds of the Note is used, directly or indirectly, to make or finance a loan to persons other than state or local government units.

Section 5 No Arbitrage.

The City shall not take, or permit or suffer to be taken, any action with respect to the proceeds of the Note which, if such action had been taken, or had been deliberately and intentionally taken, on the Closing Date would have caused the Note to be an "arbitrage note" within the meaning of Section 148(a) of the Code and regulations promulgated thereunder.

**ARTICLE VI**

**MISCELLANEOUS**

Section 1 Execution of Closing Documents and Certificates.

The Mayor and the Clerk are fully authorized and empowered to take such further action and to execute and deliver such closing documents and certificates as may be necessary and proper in order to complete the issuance of the Note herein authorized and the action of such officers or any one or more of them in executing and delivering any of such documents, in such form as he or they shall approve, is hereby fully authorized.

Section 2 Mayor Pro Tempore May Act in Mayor's Absence; Acting Clerk may Act in Clerk's Absence.

In the absence of the Mayor, the Mayor Pro Tempore is fully authorized to exercise all powers vested in the Mayor under this Ordinance. In the absence of the Clerk, the Acting Clerk of the City Council is fully authorized to exercise all powers and take all actions vested in the Clerk under this Ordinance.

Section 3 Benefits of Ordinance Limited to the City and Holder of the Note.

With the exception of rights or benefits herein expressly conferred, nothing expressed or mentioned in or to be implied from this Ordinance or the Note is intended or should be construed to confer upon or give to any person other than the City and the holder of the Note, any legal or

equitable right, remedy or claim under or by reason of or in respect to this Ordinance or any covenant, condition, stipulation, promise, agreement or provision herein contained. This Ordinance and all of the covenants, conditions, stipulations, promises, agreements and provisions hereof are intended to be and shall be for and inure to the sole and exclusive benefit of the City and the holder from time to time of the Note as herein and therein provided.

Section 4 Ordinance Binding Upon Successors or Assigns of the City.

All the terms, provisions, conditions, covenants, warranties and agreements contained in this Ordinance shall be binding upon the successors and assigns of the City and shall inure to the benefit of the holder of the Note.

Section 5 No Personal Liability.

No recourse shall be had for the enforcement of any obligation, covenant, promise or agreement of the City contained in this Ordinance or the Note, against any member of the City Council, any officer or employee, as such, in his or her individual capacity, past, present or future, of the City, either directly or through the City, whether by virtue of any constitutional provision, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise, it being expressly agreed and understood that this Ordinance and the Note are solely corporate obligations, and that no personal liability whatsoever shall attach to, or be incurred by, any member, officer or employee as such, past, present or future, of the City, either directly or by reason of any of the obligations, covenants, promises or agreements entered into between the City and the noteholder or to be implied therefrom as being supplemental hereto or thereto, and that all personal liability of that character against every such member, officer and employee is, by the adoption of this Ordinance and the execution of the Note, and as a condition of, and as a part of the consideration for, the adoption of this Ordinance and the execution of the Note, expressly waived and released. The immunity of member, officers and employees of the City under the provisions contained in this Section shall survive the termination of this Ordinance.

Section 6 Effect of Saturdays, Sundays and Legal Holidays.

Whenever this Ordinance requires any action to be taken on a Saturday, Sunday, legal holiday or bank holiday in the State of South Carolina, such action shall be taken on the first business day occurring thereafter. Whenever in this Ordinance the time within which any action is required to be taken or within which any right will lapse or expire shall terminate on a Saturday, Sunday, legal holiday or bank holiday, in the State of South Carolina, such time shall continue to run until midnight on the next succeeding business day.

Section 7 Partial Invalidity.

(a) If any one or more of the covenants or agreements or portions thereof provided in this Ordinance on the part of the City to be performed should be determined by a court of competent jurisdiction to be contrary to law, then such covenant or covenants, or such agreement or agreements, or such portions thereof, shall be deemed severable from the remaining covenants and agreement or portions thereof provided in this Ordinance and the invalidity thereof shall in no way affect the validity of the other provisions of this Ordinance or of the Note, but the holders of the Note shall retain all the rights and benefits accorded to them hereunder and under any applicable provisions of law.

(b) If any provisions of this Ordinance shall be held or deemed to be or shall, in fact, be inoperative or unenforceable or invalid as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any constitution or

statute r rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable or invalid in any other case or circumstance, or of rendering any other provision or provisions herein contained inoperative or unenforceable or invalid to any extent whatever.

Section 8 Law and Place of Enforcement of the Ordinance.

This Ordinance shall be construed and interpreted in accordance with the laws of the State of South Carolina, and all suits and actions arising out of this Ordinance shall be instituted in a court of competent jurisdiction in such State.

Section 9 Effect of Article and Section Headings and Table of Contents.

The heading or titles of the several Articles and Sections hereof, and any table of contents appended hereto or to copies hereof, shall be solely for convenience of reference and shall not affect the meaning, construction, interpretation or effect of this Ordinance.

Section 10 Continuing Disclosure.

- (a) The City hereby covenants to file with a central repository for availability in the secondary note market when requested;
- (i) An annual, independent audit, within 30 days of the City's receipt of the audit; and (ii) Event specific information, within 30 days of and event adversely affecting more than 5% percent of revenue.
- (b) The City Council hereby authorizes the Mayor to execute and deliver the continuing disclosure agreement with respect to the Note in substantially the form presented at second reading of this Ordinance.

Section 11 Notice of Enactment of Ordinance.

Upon enactment of this Ordinance, as authorized by Section 11-27-40 of the Code of Laws of South Carolina 1976, as amended, notice, substantially in the form attached hereto as Exhibit C, of the enactment of this Ordinance shall be published once in the Post & Courier, a newspaper published in Charleston, South Carolina of general circulation in the City.

DONE IN MEETING DULY ASSEMBLED, this 13th day of January, 2004.

CITY OF CHARLESTON, SOUTH CAROLINA (SEAL) By: /s/ Joseph P. Riley, Jr.

Mayor

Attest: /s/ Vanessa Turner-Maybank

City Clerk

First Reading: December 16, 2003

Second Reading: January 13, 2004

**EXHIBIT A**

UNITED STATES OF AMERICA

STATE OF SOUTH CAROLINA

CITY OF CHARLESTON

GENERAL OBLIGATION BOND ANTICIPATION NOTE

NO. R-1

Interest Rate (\_\_\_\_%) Original

Date of Issue:

Registered Owner:

Principal Sum: \_\_\_\_\_ Dollars

KNOW ALL MEN BY THESE PRESENTS, that the CITY OF CHARLESTON, SOUTH CAROLINA (hereinafter called the City), a body politic and corporate and a municipal corporation under the laws of the State of South Carolina, is justly indebted, and, for value received, hereby promises to pay to the Registered Owner or registered assigns hereof the Principal Sum set forth above, together on \_\_\_\_\_, 200\_, and interest (computed on the basis of a 360-day year consisting of twelve 30-day months) on such Principal Sum from the Original Debt of Issue set forth above, at the Interest Rate per annum specified above. The principal of and interest on this note, when due, shall be payable at the principal office of \_\_\_\_\_, in the City of \_\_\_\_\_, State of \_\_\_\_\_. Both the principal of and interest on this note are payable in any coin or currency of the United States of America which is, at the time of payment, legal tender for the payment of public and private debts. For the prompt payment hereof, both principal and interest, as the same shall become due, the full faith, credit, and taxing power of the City are irrevocably pledged.

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

THIS NOTE is issued pursuant to and for purposes authorized by the Municipal Bond Act (Article 5, Chapter 21, Title 5, Code of Laws of South Carolina 1976, as amended), as amended and continued by Section 11-27-40 of the Code of Laws of South Carolina 1976, as amended, and an Ordinance (the Ordinance), duly enacted by the City Council of the City of Charleston, South Carolina, in order to obtain funds with which to defray the costs, together with certain other government entities, the Charleston Area Region Transportation Authority's Leeds Avenue Maintenance Facility (the Project).

[THE NOTE shall not be subject to prepayment prior to maturity.]

ALL PRINCIPAL, interest or other amounts due hereunder shall be payable only to the Registered Owner hereof. This note may not be transferred or assigned. Any purported assignment in contravention of the foregoing requirements shall be, as to the City, absolutely null and void. The person in whose name this note shall be registered shall be deemed and regarded as the absolute owner hereof for all purposes, and payment of the principal of and interest on this note shall be made only to or upon the order of the Registered Owner or his legal representative. All such payments shall be valid and effective to satisfy and discharge the liability of the City upon this note to the extent of the sum or sums so paid. No person other than the Registered Owner shall have any right to receive payments, pursue remedies, enforce obligations or exercise or enjoy any other rights under this note against the City.

Notwithstanding the foregoing, nothing herein shall limit the rights of a person having a beneficial interest in this note as against a person (including the Registered Owner) other than the City, as in the case where Registered Owner is a trustee or nominee for two or more beneficial owners of an interest in this note.

IT IS HEREBY CERTIFIED AND RECITED that all acts, conditions, and things required by the Constitution and Laws of the State of South Carolina to exist, to happen, and to be performed precedent to or in the issuance of this note exist, have happened, and have been done and performed in regular and due time, form, and manner; that the total indebtedness of the City, including this note, does not exceed any constitutional or statutory limitation thereon; and that

provision has been made for the levy and collection of sufficient taxes, without limit, for the payment of the principal and interest hereof, as the same shall fall due.

IN WITNESS WHEREOF, THE CITY OF CHARLESTON, SOUTH CAROLINA, has caused this Note to be signed in its name by the Mayor of the City of Charleston, by his manual signature, attested by the Clerk of the City Council of the City of Charleston, by her manual signature, under the Seal of the City of Charleston impressed or reproduced hereon, and this Note to be dated the \_\_\_\_\_ day of \_\_\_\_\_, 2004.

**CITY OF CHARLESTON, SOUTH CAROLINA  
(SEAL)**

By: \_\_\_\_\_ Mayor

**ATTEST:**

\_\_\_\_\_  
Clerk of City Council

**EXHIBIT B CITY OF CHARLESTON, SOUTH CAROLINA**

OFFICIAL NOTICE OF SALE      \$ \_\_\_\_\_

**GENERAL OBLIGATION BOND ANTICIPATION NOTE**

SEALED PROPOSALS, addressed to the undersigned, will be received by the City Council of the City of Charleston (the City Council) until 12:00 noon, local time, \_\_\_\_\_, \_\_\_\_\_, 2004, at which time said proposals will be publicly opened at the office of the Mayor of the City of Charleston, 80 Broad Street Charleston, South Carolina, for the purchase of \$ \_\_\_\_\_ CITY OF CHARLESTON, SOUTH CAROLINA, GENERAL OBLIGATION BOND

ANTICIPATION NOTE. The Note shall be issued as a single fully registered note and shall be dated as of the date of its delivery

THE NOTE will bear interest at a single rate of interest to be named by the successful bidder, and will be payable, both principal and interest, one year after the date of delivery of the Note. Both principal and interest will be payable in any coin or currency of the United States of America which is, at the time of payment, legal tender for the payment of public and private debts. Principal of and interest on the Note, when due, shall be payable at the designated office of the successful bidder as Paying Agent.

[THE NOTE is not subject to prepayment prior to maturity.]

BIDDERS are invited to name a single rate of interest which the Note is to bear, and, unless all bids are rejected, the Note will be awarded to the bidder offering to take it at the lowest net interest cost to the City, provided that any premium offered must be paid in cash as a part of the purchase price.

Interest cost will be determined by deducting premium, if any, from the aggregate of interest on the Note from the date of its delivery. The right is reserved to reject all proposals, but no auction sale will be conducted. The right is reserved to waive irregularities in any bid. Bids will be accepted or rejected by 3:00 p.m. (prevailing local time) on the day of the sale. NO PROPOSAL for the purchase of less than the entire Note, or at a price of less than par and accrued interest to the date of delivery, will be considered.

THE NOTE will be a General Obligation Bond Anticipation Note of the City, payable, both as to principal and interest, from an ad valorem tax upon all taxable property in the City, without limitation as to rate or amount.

PURCHASERS will be furnished with the printed Note and (i) an opinion of Haynsworth Sinkler Boyd P.A., Attorneys and Counselors at Law, Charleston, South Carolina, concerning (a) the valid and binding nature of the Note and (b) the exemption of interest on the Note from Federal and South Carolina taxation on the date of such opinion, a copy of which opinion will be attached to the Note, and (ii) with the usual closing proofs, which will include (a) a certificate that there is no litigation threatened or pending to restrain the issuance or sale of the Note. EACH BID must include a statement by the bidder stating that the bidder intends to purchase the Note for its own portfolio and not with the present intent of reoffering the Note to the general public.

EACH BID shall be enclosed in a sealed envelope and marked "PROPOSAL FOR CITY OF CHARLESTON GENERAL OBLIGATION BOND ANTICIPATION NOTE" and be directed to the undersigned. No good faith check is required. Facsimile bids will not be accepted. THE NOTE is being offered by the City, when, as, and if issued, and subject to the delivery of the approving opinion as to legality of Haynsworth Sinkler Boyd P.A., Charleston, South Carolina, as Note Counsel. It is anticipated by the City that the Note will be available for delivery within fifteen days after the occasion of its award against payment in federal or other immediately available funds.

THERE IS no official bid form.

EACH BID shall be conditioned in accordance with this Notice of Sale.

Joseph P. Riley, Jr., Mayor  
City of Charleston, South Carolina

#### **EXHIBIT C**

#### **NOTICE OF ENACTMENT OF ORDINANCE AUTHORIZING ISSUANCE OF \$ \_\_\_\_\_ GENERAL OBLIGATION BOND ANTICIPATION NOTE OF THE CITY OF CHARLESTON.**

Notice is hereby given that the City Council of the City of Charleston has enacted an Ordinance authorizing the issuance of \$ \_\_\_\_\_ General Obligation Bond Anticipation Note of the City of Charleston secured by a pledge of the full faith, credit, and taxing power of the City of Charleston.

This notice is being given pursuant to subsection 8 of Section 11-27-40 of the Code of Laws of South Carolina 1976, as amended, which provides that the initiative and referendum provisions contained in Chapter 17, Title 5, Code of Laws of South Carolina 1976, as amended, should not be applicable to the aforesaid Ordinance unless a notice, signed by not less than five qualified electors, of the intention to seek a referendum, be filed within twenty days following the publication of this notice in the Office of the Clerk of Court for Charleston County and the office of the Clerk of Council of the City of Charleston.

By order of the City Council of the City of Charleston, South Carolina.

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The vote was not unanimous. Councilmember Shirley and Councilmember George voted nay. Council then considered the remaining four bills up for second reading. They passed second reading on motion of Councilmember Gallant and third reading on motion of Councilmember Lewis. On the further motion of Councilmember Tinkler, the rules were suspended and the bills were immediately ratified as:

**RATIFICATION NUMBER**

**2004-02**

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF CHARLESTON BY CHANGING THE ZONE MAP, WHICH IS A PART THEREOF, SO THAT 2 ASHE STREET AND 82 SPRING STREET (0.12 ACRE) (TMS #460-08-03-176 AND 189) BE REZONED FROM LIMITED BUSINESS (LB) CLASSIFICATION TO DIVERSE RESIDENTIAL (DR-2F) CLASSIFICATION.

BE IT ORDAINED BY THE MAYOR AND COUNCILMEMBERS OF CHARLESTON, IN CITY COUNCIL ASSEMBLED:

Section 1. That the Zoning Ordinance of the City of Charleston be, and the same hereby is amended, by changing the zone map thereof so as to rezone the property described in Section 2 hereof by changing the zoning designation from Limited Business (LB) classification to Diverse Residential (DR-2F) classification.

Section 2. The property to be rezoned is described as follows:

2 Ashe Street and 82 Spring Street (.12 acre)  
(TMS# 460-08-03-176 and 189)

Section 3. This ordinance shall become effective upon ratification.

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**RATIFICATION NUMBER**

**2004-03**

AN ORDINANCE TO AMEND THE CITY OF CHARLESTON ZONING ORDINANCE BY ADDING ADDITIONAL STREETS TO SECTION 54-268 a., THE COMMERCIAL CORRIDOR DESIGN REVIEW DISTRICT. **(AS AMENDED)**

BE IT ORDAINED BY THE MAYOR AND COUNCIL MEMBERS OF CHARLESTON, IN CITY COUNCIL ASSEMBLED:

Section 1. Section 54-268 a. of the Zoning Ordinance is hereby amended by inserting in alphabetical order the following commercial corridors: Central Park Road Daniel Ellis Drive Ellis Oak Avenue

Huger Street (King Street to Morrison Drive)

Section 2. This ordinance shall become effective upon ratification.

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**RATIFICATION NUMBER**

**2004-04**

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE THE NECESSARY DOCUMENTS TO ENTER INTO A FIRST AMENDMENT TO TERMINATION OF EASEMENT AND DECLARATION OF RECIPROCAL EASEMENTS - BOOK R-252-521, BETWEEN THE CITY OF CHARLESTON AND FMH, L.P., A SOUTH CAROLINA LIMITED PARTNERSHIP, MORE PARTICULARLY DESCRIBED IN THAT CERTAIN FIRST AMENDMENT MARKED AS EXHIBIT A, ATTACHED HERETO AND INCORPORATED BY REFERENCE HEREIN.

BE IT ORDAINED BY THE MAYOR AND COUNCIL MEMBERS OF CHARLESTON, IN CITY COUNCIL ASSEMBLED:

Section 1. The Mayor is hereby authorized to execute the necessary documents to enter into a First Amendment to Termination of Easement and Declaration of Reciprocal Easements - Book R-252-521, between the City of Charleston and FMH, L.P., a South Carolina Limited

Partnership, more particularly described in that certain First Amendment marked as Exhibit A, attached hereto and incorporated by reference herein.

Section 2. This ordinance shall become effective upon ratification.

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**2004-04 EXHIBIT A**

STATE OF SOUTH CAROLINA ) FIRST AMENDMENT TO TERMINATION  
) OF EASEMENT AND DECLARATION OF  
COUNTY OF CHARLESTON ) RECIPROCAL EASEMENTS-Book R-252-521

This is the First Amendment made to the Termination of Easement and Declaration of Reciprocal Easements (the "Reciprocal Easements") entered into February 15, 1995, between FMH, L.P. a South Carolina Limited Partnership ("FMH") and the City of Charleston (the "City").

The background of this Amendment is as follows:

- A. FMH and the City entered into the Reciprocal Easements with regard to the service area ("Service Area") located to the rear of the Francis Marion Hotel ("Hotel"), which is located upon the property owned by FMH known as "Lot A" and property owned by the City known as "Lot B" as more fully shown on Exhibit "A" to the Reciprocal Easements.
- B. MH wishes to expand its conference facilities over the existing one story portion of the Hotel and in the course of constructing the conference facilities, it needs to construct foundations and a portion of a column, which will encroach onto the property of the City as more fully shown on Exhibit "A-1" (*Exhibit A-1 is attached to original ordinance*) attached hereto and made a part hereof by this reference. In addition, a portion of the exhaust system for the restaurant and heating system for the Hotel will encroach onto Lot B as shown on Exhibit "B" (*Exhibit B is attached to original ordinance*). Construction of the addition to the Hotel will cause the garage (the "Garage") owned by the City located on Lot B to have to be ventilated as hereinafter provided.
- C. FMH has also requested an easement to have a fire exit from the addition of the Hotel into the Garage.
- D. FMH has also requested an easement to construct a connection to the Garage in order to access the second level of the Garage as shown on Exhibit "C" (*Exhibit C is attached to original ordinance*) attached hereto and made a part hereof by this reference. Construction of the connection will require that the meter repair room on the second level of the Garage be relocated to the fifth level of the Garage as hereinafter provided.
- E. The City has agreed to amend the Reciprocal Easements to provide for these encroachments and easements and to grant a non-exclusive temporary Construction Easement to make the improvements. The easement area shall remain open at all times for emergency vehicles, such as police and fire.
- F. FMH has agreed to provide alternative parking for the benefit of the City during construction to replace the parking in the Service Area which will be blocked by the construction, to provide ventilation for the Garage, and to relocate the meter repair room as hereinafter provided.
- G. FMH shall pay Fifteen Thousand (\$15,000.00) Dollars to the City as additional consideration for the easements granted herein.



Now, therefore, in consideration of the premises contained herein and other good and valuable consideration, the parties hereto agree as follows:

1. The City hereby grants to FMH:

(a) a permanent easement to construct a portion of new column A-1, together with a portion of its foundation, and a portion of foundations for columns A-3, A-4, A-5, and A-6, (*Exhibit A-3, A-4, A-5, and A-6 are attached to original ordinance*) upon Lot B as more fully shown on Exhibit "A-1" attached hereto and made a part hereof by this reference and to allow the exhaust systems and mechanical chases from the addition to the Hotel to encroach onto Lot B as shown on Exhibit "B",

(b) An easement for a fire door to exit on the third level of the Garage as shown on Exhibit "C", as well as an easement to construct a connector to the Garage on the third level as shown on Exhibit "C" (*Exhibit C is attached to original ordinance*) as "Connector to Garage".

(c) Easement to attach an expansion joint to the Garage at the third level as shown on Exhibit "D" (*Exhibit D is attached to original ordinance*). This expansion joint will be similar to the expansion joint the City attached to the existing Hotel at the first level as shown on Exhibit "D" (*Exhibit D is attached to original ordinance*). The final design and construction of the expansion joint is subject to approval by the City's Chief Building Official.

(d) A temporary Construction Easement to enter upon the Service Area located upon Lot B during the term of construction in order to make the improvements.

(e) The within easements granted by the City to FMH are for the economic and commercial benefit of Lot A and are appurtenant and transferable with the title to Lot A, so long as Lot B is used as a Garage and owned by the City.

2. To have and to hold, all in singular said easements unto FMH, FMH successors and assigns forever and the City does hereby bind the City's successors and/or assigns to warrant and forever defend all in singular and said FMH easements unto FMH and FMH successors and assigns against the City and the City's successors lawfully claim and to claim the same or any part thereof.

3. As part of the construction of the Connector to Garage and, as consideration for the City granting the within Easements, FMH agrees to:

a. Provide proper fire ingress/egress through the Garage as approved by the City's Chief Building Official.

b. Provide a ventilation system for the garage in accordance with plans developed by Berenyi, Incorporated and as approved by the City's Chief Building Official. FMH shall be responsible for all costs of the installation of the ventilation system and will have the ventilation system installed prior to completion of the exterior of the conference center addition to the Hotel of February 28, 2004, whichever is sooner. The City will be responsible for the maintenance, repair and replacement of the ventilation system after it is installed by FMH and accepted by the City.

c. Construct two connections for the two (2) fire exit doors from the addition to the Hotel to the Garage in accordance with the plans approved by the City's Chief Building Official. The connections shall be maintained, repaired or replaced at the sole cost and expense of FMH.

d. To relocate the existing meter repair room on the third level of the Garage to the fifth level of the Garage. FMH will be responsible for the electrical and mechanical work and related cost of relocating the meter repair room to the fifth level, including the installation of light

fixtures with fixtures compatible with those in the rest of the Garage, as well as waterproofing the exterior walls, painting the interior walls, ceiling and floor of the new meter space on the fifth level, and relocating the phone and data lines to the new meter space at no cost to the City. FMH will also be responsible for moving the contents of the third level meter space into the fifth level meter space in coordination with the meter shop staff. FMH may use the existing heating and air conditioning system and fixtures as a part of the relocation, which shall be installed in good working order. FMH shall be responsible for moving the meters, parts and equipment. After the meter repair room has been relocated, the walls to the existing meter repair room will be removed in order to create an open area leading to the Garage Connector. FMH shall have the right, at any time within five (5) years from the date of the removal of the walls to the existing meter repair room to construct a vestibule within the open area so long as it is made of glass or other materials and is of a size approved by the City Building Official and meets all code requirements, all of which shall be the responsibility of FMH to keep clean, maintain, repair or replace as approved by the City's Design Review Committee. FMH shall be responsible to restore the third level meter shop space to a neat and clean condition with appropriate lighting, with the walls, counters and cabinets removed properly and any necessary repairs made to the space such as patching holes, etc. as necessary.

e. All work for the Garage Connector shall be done so as not to interfere with the existing cornice on the façade of the Garage located above the three (3) windows over the service area entrance.

f. To mark the parking space, which will be lost as a result of the fire exit into the Garage as no parking. FMH shall pay Fifteen Thousand (\$15,000.00) Dollars as additional consideration for the City for the easements granted herein.

g. Provide drainage on the south side of the Hotel to meet the requirements for its improvements and in accordance with the City Zoning Ordinances as approved by the City's Chief Building Official and the City Engineer.

h. Provide access to the mechanical units on the south side of the Hotel in accordance with plans approved by South Carolina Electric and Gas Company. FMH shall provide written verification from SCE&G that access to the mechanical units on the north side of the Hotel after completion of the expansion will be adequate now and in the future to accommodate the servicing, repair or replacement of such mechanical units, including, but not limited to, the electrical transformer. In the event such access is not allowed at any time in the future, FMH shall be responsible for the cost of relocating the mechanical units to a location that is acceptable to the City and SCE&G.

i. Acknowledge that the City, in its sole discretion, shall have the right to temporarily close the Connector(s) if the garage needs to be repaired and the repair will render pedestrian access in the vicinity of the Connector(s) unsafe.

4. During the term of the construction, FMH shall provide liability insurance with minimum annual limits of \$2M to protect the City from any and all claims arising out of its entry upon the property of the City to make the improvements and shall also provide and lease from the City for (4) parking spaces in the Garage at prevailing monthly market parking rates for the benefit of the City and its tenants until the Service Area is restored after completion of construction.

5. No Certificate of Occupancy will be granted to FMH for the new addition to the Hotel until all the work provided for herein is completed, approved and accepted by the City. Except as provided herein, all other terms and conditions of the Reciprocal Easements shall remain and be the same and are incorporated herein by this reference.

In witness whereof, the parties have set their hands and seals this 8<sup>th</sup> day of December, 2003.

**WITNESSES: FMH, L.P., A SOUTH CAROLINA LIMITED PARTNERSHIP**

By: PACKWOOD CHARLESTON LIMITED PARTNERSHIP, its General Partner

By: Portwood Propertis Corporation  
Its General Partner

1<sup>st</sup> Witness Signature Illegible By: /s/ P. Steven Dopp,

2<sup>nd</sup> Witness: /s/ Frances Payne Its President

By: Packard Properties, Inc.,  
It's General Partner

By: /s/ Gregory R. Lenox,  
Its President

CITY OF CHARLESTON

1<sup>st</sup> Witness: /s/ Rita Donato By: /s/ Joseph P. Riley, Jr.

2<sup>nd</sup> Witness: /s/ Lavonne Grant Mayor ATTEST:

/s/ Vanessa Turner-Maybank  
Clerk of Council

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON ACKNOWLEDGMENT

I, the undersigned Notary Public for the State of South Carolina, do hereby certify that FMH, L.P., a South Carolina Limited Partnership, by Packwood Charleston Limited Partnership, its General Partner, by Portwood Properties Corporation, its General Partner, by P. Steven Dopp, its President, and by Packard Properties, Inc., its General Partner, by Gregory R. Lenox, its President, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Subscribed to and sworn before me this 8<sup>th</sup> day of December, 2003

/s/ Michele C. Bellamy Notary  
Public

State of South Carolina  
My commission expires:  
May 15, 2013

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON ACKNOWLEDGMENT

I, the undersigned Notary Public for the State of South Carolina, do hereby certify that the CITY

OF CHARLESTON by Joseph P. Riley, Mayor, and Vanessa Turner-Maybank, Clerk of Council, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Subscribed to and sworn before me this 21<sup>st</sup> day of January, 2004

/s/ Brenda S. Cawley Notary

Public

State of South Carolina

My commission expires:

October 24, 2004

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**RATIFICATION NUMBER**

**2004-05**

AN ORDINANCE TO AMEND SECTION 19-400(D) OF THE CODE OF THE CITY OF CHARLESTON TO PROVIDE FOR THE MAXIMUM STORAGE FEE FOR A NONCONSENSUAL TOW; TO AMEND SECTION 19-419(A) OF THE CODE OF THE CITY OF CHARLESTON TO PROVIDE FOR THE MAXIMUM CHARGE FOR A NONCONSENSUAL BOOT; AND TO AMEND SECTION 19-396(C) OF THE CODE OF THE CITY OF CHARLESTON TO REQUIRE THAT TOWING PERMITS SHALL BE RENEWED ANNUALLY AND THAT TOWING PERMITS MAY BE DENIED, SUSPENDED OR REVOKED FOR VIOLATING ANY SECTION OF THIS CHAPTER OR CODE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL MEMBERS OF CHARLESTON, IN CITY COUNCIL ASSEMBLED:

**Section 1.** Section 19-400(d) of the Code of the City of Charleston is hereby amended by deleting the section in its entirety and substituting in its place and stead the following section, which shall read as follows:

"The maximum storage amount that shall be charged for a vehicle that has been towed as a result of a nonconsensual tow shall be no more than six dollars (\$6.00) during any twenty-four (24) hour period of storage."

**Section 2.** Section 19-419(a) of the Code of the City of Charleston is hereby amended by deleting the phrase "twenty dollars (\$20.00)" in line three, and substituting in its place and stead the phrase "thirty-five dollars (\$35.00)."

**Section 3.** Section 19-396(c) of the Code of the City of Charleston is hereby amended by adding two new sentences at the end of the section, which shall read as follows:

"This license shall be renewable on February 1st of every year at the same rate of ten dollars (\$10.00) per year. Any license under this article may be denied, suspended or revoked for violating any section of this chapter or Code."

**Section 4.** This Ordinance shall become effective upon ratification.

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Councilmember Fishburne asked the Mayor to have staff look into the issues that had been raised during the Citizen Participation portion of this meeting regarding the annexation of 2346 Twin Oaks Drive (26.19 acres) (TMS #355-13-00-001, 355-09-00-079, 080, 092), St. Andrews Parish, Charleston County. The Mayor responded that he would do so.

Councilmember Campbell commented that the City had been involved in an affordable housing project for senior citizens on the corner of Poinsett Street and King Street. He noted this was again an opportunity to hire community people, either laborers or subcontractors to work on this project. He commented that it did not appear to him that this had been happening.

Continuing, he said that there is a HUD requirement that local community people are to be hired and that the very best attempt is made to hire subcontractors from the local community. He stated his understanding that the City's Department of Housing and Community Development is responsible for monitoring this. He asked that Housing and Community Development look into this matter and review what the law says.

Councilmember Gallant noted that he was not sure if he should address a concern of his to the City's legal staff. He then spoke of Lowndes Point development in Wagener Terrace, which is in his district. He noted that this planned unit development (PUD) had come before Council a year or two ago. He explained that the community had become concerned about the number of boat slips that were to be included in the PUD.

Continuing, Councilmember Gallant said that he had written a letter, along with Joe Wolfe, President of the Wagener Terrace Neighborhood Association, to the Office of Coastal Resource Management (OCRM) regarding these concerns. He commented that there had been some changes and some miscommunication had been represented to the judge. He spoke of bringing this PUD back before Council if at all possible.

Councilmember Gallant then moved for the subject PUD to come back before Council.

Councilmember Campbell seconded the motion.

Without objection, Mayor Riley said that he would get a report back to Council on the Lowndes Point issue.

Deputy Corporation Counsel Adelaide Andrews rose to say she believed that Director of Design, Development and Preservation Yvonne Fortenberry had been in contact with Mr. Wolfe and the community. Ms. Andrews was under the impression that City staff had written a letter to OCRM and OCRM had agreed to appeal the ruling of the administrative law judge on the subject marina/slip issue. She said that she believed this to be the heart of the controversy. She was not aware of any other concerns with the PUD other than this one issue.

Continuing, she noted that staff had been working with Mr. Wolfe and the community to try to clarify what Council had voted on and what that vote contained. She stated that she would be happy to brief Council, but she did not know that it would be appropriate to bring the matter back before Council at this time.

When Ms. Andrews asked Councilmember Gallant if he was requesting action, or clarification or discussion, he responded that he wanted both action and clarification regarding the modifications. He believed the modifications had taken place after Council's approval. He expressed his belief that the changes had caused the problems with the boat slips and said that he would like for them to come to Council and explain the changes.

Councilmember Gallant asked Ms. Andrews if Council had voted on the number of boat slips. She replied that the City's PUD did not address the number of boat slips. She explained that this fact had been clarified for OCRM. Ms. Andrews commented that she did not believe the issue had been what the PUD said. She further explained that there had not been a change, it had simply been that an interpretation was made that was not substantiated by this Council's vote on the document, on the PUD itself.

She went on to say that staff would continue to work with Mr. Wolfe and she felt it would be appropriate to report back to Council at the next meeting on the status of the PUD and the OCRM matter. She spoke briefly of the need to look at procedural and statutorial to determine what would trigger a review in a modification of PUDS.

Councilmember George said that Councilmember Gallant had been correct. He said that he had several conversations with Chris Brooks. Councilmember George commented that the problem really stemmed from the fact that the information presented to the administrative law judge by the attorney representing the developer did not correctly state the City's action. He remarked that this would be about the kindest way somebody could say this.

Continuing, Councilmember George spoke about the issue of boat slips or the number of boat slips being a use of right or a conditional use. He then stated his understanding of the current PUD zoning regarding community boat slips. He said that their definition of community boat slips is entirely different from a marina. He added that there is a big legal difference in OCRM's mind.

Councilmember George stated that the City's ordinance addresses community boat slips, but he felt the City would run into more problems. He said that this happens on James Island and Johns Island. He expressed the opinion that the City does not really offer any guidance in its zoning. He felt anytime there is a community boat dock, more than two people sharing a dock that should be a conditional use at a minimum and it should never be a use of right.

He said this problem had occurred because once it left the City staff the developer went back for a permit for nine and tried to get a permit for 27. He felt that they had misrepresented it to the administrative law judge. He reiterated that he thought there was a problem in the City's ordinance.

Mayor Riley indicated that staff would look into this and report back to City Council.

Councilmember Gallant asked for clarification of what would be done. In response to his question, Ms. Andrews stated that it would come back as a recap of what had happened from the time that Council approved the PUD through this date.

She went on to say that she believed staff had met Mr. Wolfe's request by clarifying what this Council had approved, what it had not approved and more importantly the matter was now on appeal by OCRM.

Joe Wolfe, President of the Wagener Terrace Neighborhood Association, expressed his appreciation for the letter that clarified the City's position. He said that the developer had made the changes for monetary reasons so that they charge \$75,000 for every lot in the PUD. He stated that he wanted staff to know that he felt this would be a major change in the PUD although staff had said that this does not have anything to do with it.

He reiterated that he believed that it did because it drove the value of the homes up and changed the community itself because the developers were describing it as a waterfront community. Mr. Wolfe stressed that the Wagener Terrace neighborhood would never have stood behind the development if they had known about this. He said that these are the kinds of things that are happening in our PUDs. He again noted that staff had considered this a insignificant change and said that it is a major change to a PUD.

When the Mayor asked Councilmember Gallant if a report on this issue would be acceptable to him, he responded affirmatively. Councilmember Gallant noted that he would like to meet with

the Mayor and Ms. Andrews to get further clarification on this issue. He wanted his colleagues to understand that he wanted them to know that this was exactly what Council had voted on.

Councilmember Shirley stated that he would also like to see the minutes.

There were no further questions or comments of Council on this matter.

Councilmember Lewis asked for a report on the Shoreview project to be on Council's agenda at the first meeting in February 2004.

The agenda noted the next City Council meeting would be at 5:00 p.m., Tuesday, January 27, 2004 at City Hall.

There being no further business the meeting adjourned at 6:55 p.m.

Vanessa Turner-Maybank Clerk  
of Council