

COUNCIL CHAMBER

Regular Meeting

May 24, 2018

The fifty-fifth meeting of the City Council of Charleston was held this date convening at 5:27 p.m. at City Hall.

A notice of this meeting and an agenda were mailed to the news media May 16, 2018 and appeared in The Post and Courier May 20, 2018 and are made available on the City's website.

PRESENT (13)

The Honorable John J. Tecklenburg, Mayor

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|------------------------|------------|--|-------------|
| Councilmember White | District 1 | Councilmember Waring - <i>excused at 7:57 p.m.</i> | District 7 |
| Councilmember Shealy | District 2 | Councilmember Seekings | District 8 |
| Councilmember Lewis | District 3 | Councilmember Shahid | District 9 |
| Councilmember Mitchell | District 4 | Councilmember Griffin | District 10 |
| Councilmember Wagner | District 5 | Councilmember Moody | District 11 |
| Councilmember Gregorie | District 6 | Councilmember Jackson | District 12 |

Mayor Tecklenburg called the meeting to order at 5:27 p.m.

The Clerk called the roll.

Mayor Tecklenburg said, "So, if you would like to join us in prayer, Councilmember Shealy, will you please lead us, and then with the Pledge of Allegiance."

Councilmember Shealy said, "Thank you, Mayor. Will you please bow your heads for a moment?"

Councilmember Shealy opened the meeting with an invocation.

Councilmember Shealy then led City Council in the Pledge of Allegiance.

Mayor Tecklenburg said, "Thank you, and Councilmember Shealy, thank you for that very thoughtful prayer. Speaking of Spoleto, tomorrow, at noon, right in front of City Hall, we will have the opening ceremonies of the 42nd Festival of Spoleto here in Charleston. So, everyone is welcome to come, all of our citizens. There will be a performance, a surprise performance, of some of Spoleto performers this year, so please come, if you can, tomorrow, at noon.

Next, we have a special presentation and as prefaced again, in Councilmember Shealy's prayer, a Resolution regarding the Susie Jackson Memorial Garden. I would like to ask for Ms. Jackson's family to please come forward and join me on the dais along with Councilmember

Gregorie, who is a member of Mother Emanuel, and Councilmember Mitchell, who is a member of the District, and also the remarkable President of Mazyck-Wraggsborough Garden District, Vangie Rainsford, and any other representatives of the neighborhood who would like to join us. Well, thank you for joining me.”

Mayor Tecklenburg read the Resolution.

---INSERT RESOLUTION---

Mayor Tecklenburg said, “Thank you very much, and God bless you.”

There was a standing ovation in the Chamber.

Mayor Tecklenburg said, “So, may I present one to the family. I have two, and one to the Church. Would any of the family members or representatives here tonight like to make any remarks? You’re welcome to. I’m just going to add, as a way of thanks, that the property that this Memorial Garden will reside on was formerly owned by Charleston County. It’s right adjacent to the County Library, and through the wonderful advocacy of those in front of you and others, the County did gift the property to the City for the creation of this park, so thanks to Charleston County. Vangie.”

Vangie Rainsford said, “Councilmen and other members, we’re going to hit the ground running with this project. It’s going to be a fabulous addition to Mayor Riley’s dream with the International African American Museum, and as you follow your way down Emanuel Way, it will be part of what you will experience with reflection and great pride in a City that is totally united. Thank you.”

There was applause in the Chamber.

Mayor Tecklenburg said, “Well, thank you, Vangie, and thanks to all of you again. God bless.”

Councilmember Gregorie said, “You might want to vote on the Resolution. Call the vote on the Resolution.”

Mayor Tecklenburg said, “Councilmember Gregorie has made a motion that Council approve the Resolution. I think it almost goes without saying. Do we have a second?”

Councilmember Griffin said, “Second.”

Mayor Tecklenburg said, “Is there any discussion?”

On a motion of Councilmember Gregorie, seconded by Councilmember Griffin, City Council voted to approve the Resolution in Support of the Creation of the Susie Jackson Memorial Garden.

---INSERT RESOLUTION---

Mayor Tecklenburg said, “Next, I would like to briefly call on Councilwoman Jackson, just to make an announcement about Outshining the Shadows.”

Councilwoman Jackson said, “Yes, thank you very much, Mayor. I just wanted to bring to the whole Council and the public’s attention, I’m sure that many of you read an article in the Post and Courier that was featured on May 2nd. The story was about how College of Charleston

students, under one of their architectural design professors, were given a project to create designs, and the quote is to 'Outshine the Calhoun Monument' on Marion Square. I kept the article and made a point of going down to see the gallery of these design projects at the Addlestone Library at the College. It's an amazing display of not only creativity, but heartfelt inspiration, so I encourage everyone that has not paid attention to this, it's going to be there the entire summer, as best I understand. Then, I think we could maybe use it as a way to get back on track for the promise that we made back in January. I remember that because it was my first meeting on the Council, as we took delivery of the very thorough and well discussed recommendations from the History Commission about how to better address the Calhoun monument in the light that's shining on backs these days. We pledged, at the time, that we didn't take a vote on the Commission's recommendation to us about a plaque, that we would study this with a small Committee of ours, and I know I volunteered. I forgot to ask Ms. Maybank to go through the minutes and see who else joined me, but I really do think that we could spend some quality time and use this exhibit as a way to jump off. I think what we've heard from the community now is that it's probably more fitting in light of the memorial, a group that we just entertained and celebrated. It's more fitting to do something positive and proactive than it is negative and destructive. I think something like this monument, I can't imagine builders in this City that would want to come here and not contribute to something that would be this inspiring to the future generations of visitors and citizens. So, I'm using it as a muse, M-U-S-E, for people to go there and literally see what you think about these glorious exhibits. Thank you."

Mayor Tecklenburg said, "Thank you, Councilwoman Jackson. Now, I almost forgot my little spiel about if the very unlikely event occurred that we had to evacuate the building, we have these two exits here, and one exit to the room to my right. In that event, do not use the elevators, but please use the two stairs going downstairs and then the one stair out to the front. It's very unlikely, but just so everybody knows how to exit the building, if that were to arise."

Mayor Tecklenburg recognized Councilmember Griffin.

Councilmember Griffin said, "I just wanted to add on to Councilwoman Jackson's thoughts that, while when we do decide to take this issue up again, I'd like us, and I thought we were kind of moving in this direction a little bit a couple weeks ago, that we let the speaking statues be part of that dialogue, as well, with how we move forward with the plaque because they're making really good movements. They didn't put Calhoun in their first group, which I think was a good idea, but I'd like for them to have an opinion on that, as well."

Councilwoman Jackson said, "Would you report on the meeting that you had with the combined committee?"

Mayor Tecklenburg said, "Yes, so, it occurred to me when we had the presentation last meeting from Mr. Rivers and the Rainbow Group about the speaking statues and recordings of different historical figures and places in Charleston, that some very great synergy was happening with the Charleston Justice Journey Initiative. They're also identifying particular sites of history and personages of the Civil Rights movement. So, I made a point to get them together last week, and they had a very productive meeting, so they don't duplicate their efforts, and we're all working together to more fully tell the story of all parts of Charleston's history.

So, tonight we have public hearings. We have, I believe, six of them on the agenda. The first one up is regarding an abandonment of Hayne Street. I don't know if our Planning Department planned on making any presentation regarding that. I think it's actually come

before Council before, about a year and a half ago, and so we just wanted, since the matter had come back up, Counsel, would you like to make any preliminary remarks?"

Frances Cantwell said, "Just as a reminder to Council, the issue of abandoning Hayne Street, as it runs in front of what used to be the First Baptist Gym, came before Council for a public hearing almost a year ago. There was a semblance of a public hearing, but since we announced at the beginning that the matter was going to be deferred, we thought, in fairness to the public, that hearing be held again. So, tonight, before you anybody who wants to be heard on the abandonment of Hayne Street could appear, and what's before you tonight is the vote on abandoning the street and then authorizing first reading to an ordinance, which would allow the Mayor to execute the quit-claim deed to an abandoned Hayne Street to the adjoining property owners."

Mayor Tecklenburg said, "Thank you. Would anyone like to be heard on this matter? Please come forward, state your name and address. Yes, sir."

1. John Marsland, President of Historic Ansonborough Neighborhood Association (HANA), said HANA had been in discussions with Somera, the owners of the property, for over a year and appreciated the Council's desire to move ahead with the abandonment of Hayne Street. He said thanks to Councilmember White's efforts, they had made progress in discussions. They had reached a conceptual agreement on most of the issues of concern to the residents of Ansonborough, primarily around livability and traffic related issues and continued to have discussions around building height and massing of the proposed structure. They recently exchanged written drafts outlining a potential agreement, and they were working towards a solution with the support of the French Quarter neighborhood, as well as the Preservation Society of Charleston. He expressed support for deferral of the second and third readings of conveyance of the right-of-way until Somera and HANA had the opportunity to reach a satisfactory agreement.

Mayor Tecklenburg said, "Thank you, sir. Yes, sir."

2. Capers Barr said he represented the SCM Charleston Market Investors or Somera, the owners of the property. The issue had many starts, and the last deferral was in March. Councilmember White had done a yeoman's job of mediating an agreement between Somera and the HANA neighborhood. They didn't control all of the decisions because ultimately the decisions related to height, scale, and mass went before the various Boards of the City and Council for decisions. It was important that the neighborhood association and the property owner tried to reach terms, as to an agreement. The issue was whether it was in the public interest. The street had not been used for 45 years, as Council technically abandoned and closed Hayne Street in 1973 in favor of then First Baptist Church from whom his clients bought the property. The Resolution and Agreement provided that the City had the right to re-enter and take Hayne Street back on 90 days' notice and/or if the title were to ever leave First Baptist Church. There was a sunset provision in that agreement that as of January 1, 2023, it was a done deal. The street would be abandoned permanently and forever. This was important from the standpoint of public interest because a previous Council made the decision that it was in the public interest, under other circumstances, to abandon the street. They learned about the City's plans for Market Street beautification, a part of which was the placement of the wiring

underground. Originally, the City engineers believed the necessary equipment to service the underground wiring could be located on the Hayne Street right-of-way. It was determined by the electrical engineers that that was not feasible because the transformers and switch gear had to be located in much closer proximity to the wiring itself. This led to negotiations between his client, SCE&G, and the City engineering staff. His clients agreed to grant an easement to SCE&G near the corner of Anson Street and North Market Street. They agreed upon terms with SCE&G, the easement had been signed, and he had it in his file until the other aspects were consummated. His clients agreed to dedicate another easement at the north end of the property on Pinckney Street that they own to service the underground wiring that would serve the Ansonborough Neighborhood. Additionally, they agreed on the term sheet with Historic Ansonborough to record a covenant, that would attach to the title to their property, assuming that the right-of-way was abandoned, and the title ultimately vested in his client, providing that, at the termination of Hayne Street, that an area no less than 5,700 square feet would be located on the then SCM Charleston property that would include a courtyard and an arcade, through which the public would have a right to it, and pedestrians may pass from Church Street over to Anson Street. The 5,700 square feet derived from the fact that the current footprint of the Hayne Street right-of-way was 5,700 square feet.

Mayor Tecklenburg said, "Please wrap up."

There was laughter in the Chamber.

Mayor Tecklenburg said, "Every time I fail to set a limit, it bites me, right? So, Counselor, if you could please wrap up."

Mr. Barr said at the Council meeting when Councilmember White made the motion for deferral, Councilmember White brought up the fact that there was a pledge made for affordable housing, and he didn't know about it. Mr. Barr said he apologized to Councilmember White about that privately, and he wanted to apologize to him publicly for having handled that poorly. About a year ago, an advisor suggested this was a project of magnitude, and it was going to change the image of the Market Street District, it was going to be costly, and his clients should consider making a contribution to affordable housing because that was so much needed in the City of Charleston. He talked to his clients about that, and they immediately ratified it. As he was talking to some members of Council, that same question was raised, and he told them that his advisor had beat them to it. They had already made the commitment to do that, but as the day approached for the vote back in March, it occurred to him that a pledge of that nature should not be perceived as being made with any expectation of quid pro quo for a vote. So he drafted a pledge that his client had signed that committed his client to contribute \$3.40 a square foot of the conditioned space after this project was made to the Charleston Redevelopment Corporation which was a 501(3)(c) corporation created by Mrs. Shaw Johnson under the Planning Department. He learned that \$3.40 was really just intended for some apartment projects that were in the pipeline when the policy was set. His client, the other arranger of contribution to affordable housing was \$5.10, so he talked to his clients, and they were going to restate the pledge at \$4.25 a square foot, which was the median amount between \$3.40 and \$5.10. That was the explanation behind the

affordable housing pledge, and he apologized to anyone who felt like they were kept in the dark about it and particularly to Councilmember White.

3. Tyler Morris thanked Capers Barr for taking everyone through the history and wanted to second Mr. Marsland's request as they moved forward. This project came in front of Council over a year ago, and the beginning stages of the process started years before that. Last March, they supported a deferral to work with the neighborhood and other stakeholders. Since then, they went through an involved and collaborative process, which had ramped up even more so over the past several months. They had made tremendous progress with HANA, the French Quarter, and the preservation groups. They got down to the main threshold requirements of the project, which were height and number of units. Prior to that, the effort to get to that point was a tremendous amount of coordination and collaboration to understand the concerns that everybody had. They got to the point where they felt like largely everybody was satisfied, with the exception of the number of rooms and the height, and that was what they focused on over the past month and a half. There were a few outstanding points that they were working through, and they hoped to have those resolved prior to the matter coming back in front of Council, and he requested that Council vote in favor of it.

Mayor Tecklenburg said, "Thank you, sir. Yes, sir."

4. Robert Gurley, Preservation Society of Charleston, said they worked closely with the Historic Ansonborough Neighborhood Association, and they had no opinion on the abandonment, but supported deferral of second and third reading until HANA could reach an agreement with the City and Somera. They appreciated Councilmember White's leadership in working on behalf of HANA in support of a mutually beneficial outcome. They were pleased that the conversation between the parties had been productive and that draft agreements had been exchanged between the parties. The Preservation Society would continue to work with HANA and the French Quarter Neighborhood to reach a successful settlement of the remaining outstanding issues regarding height and public access of the arcade.

Mayor Tecklenburg said, "Thank you, sir. Would anyone else like to be heard? Yes, ma'am."

5. April Wood of the Historic Charleston Foundation said they were philosophically opposed to the transferring of public rights-of-way to a private developer. They understood that the beneficiary of the Hayne Street right-of-way abandonment had committed to preserving public pedestrian access via restrictive covenants. Given this commitment, the Historic Charleston Foundation was not opposed to the abandonment of Hayne Street, but they were concerned about ordering the City's abandonment prior to the applicant's commitment to being finalized. As currently established in their agreement with HANA, should the applicant fail to receive their desired zoning entitlements, the applicant would not be bound to their agreement with HANA to establish restrictive covenants. They would be able to sell their property unencumbered and enriched by the City's abandonment of Hayne Street. Because of this, the City should not give final reading to the abandonment of Hayne Street until the applicant had finalized their promised restrictive covenants. They believed that the applicant had genuinely

intended this to be the end result. They also asked that the applicant make significant contributions to the public realm as a component of their site plan for this project. They thanked the applicant for their consistent and thoughtful outreach to them, and they looked forward to continued work with them as the project proceeded.

Mayor Tecklenburg said, "Thank you so much. Would anyone else like to be heard on this matter?"

No one asked to speak.

Mayor Tecklenburg said, "Hearing none, it comes to Council."

Councilmember Mitchell said, "Move for approval."

Councilmember Waring said, "Second."

Mayor Tecklenburg said, "We have a motion to approve and a second. Is there any conversation?"

Mayor Tecklenburg recognized Councilmember White.

Councilmember White said, "I would just ask if Councilmember Mitchell would consider amending his motion, simply to allow for, we're giving it first reading, but we will withhold second and third reading until the agreement has been completed between the parties. The other thing, I would just quickly make a comment, and I think a lot has been said, and I think everybody understands sort of where we have come from to where we are now. I will say, from where we were a month and a half ago, we've made tremendous strides. I appreciate all of the work that the applicant, the owners, the Neighborhood Associations have put into it. It's been a lot of work over a very short period of time, and not always is development something that's pretty. Sometimes it's like watching sausage being made. You don't necessarily want to see it, but at the end of the day, the outcome is pretty good. That's basically what we have here, and I know that sometimes it's a little challenging, but I'm confident we're going to end up with a better project, ultimately, on this. I'm happy with where we are at but, again, we do have a few finer points that we want to nail down. So, we're just asking that we withhold second and third reading, until such time as that has been completed. I feel confident, based on the e-mails between all parties and conversations involved, that should be in fairly short order. So, with your agreement, I would appreciate you doing that."

Councilmember Mitchell said, "I wouldn't mind doing that, but I would like to know how long we are talking about for the second and third reading."

Councilmember White said, "If I had to guess, Councilmember Mitchell, it could be possible that within--"

Councilmember Mitchell said, "Even if you do it, not continuously, if you do it one at a time."

Councilmember White said, "My suggestion would simply be, we'll take second and third at the same time, but we withhold second until such time as they've got the agreement done. We could be done within a couple weeks. By the time we get to our next reading, we may have all of this hammered out, quite frankly."

Councilmember Mitchell said, "Alright. I'll do that."

Councilmember White said, "We're not talking about six or eight months. This should be fairly quick, I think."

Councilmember Waring said, "I'll second that."

Councilmember Mitchell said, "I'll accept that."

Mayor Tecklenburg said, "We have an amended motion."

Councilmember Waring said, "I seconded that."

Mayor Tecklenburg said, "Okay, and we have a second for that. Is there any other discussion or comments?"

Mayor Tecklenburg recognized Councilmember Moody.

Councilmember Moody said, "Gary (Councilmember White), let me understand what you've asked here because this would be, this is kind of out of the ordinary. If the applicant, in this case, the folks here, they bring something back, we can vote it up or down. Are you putting some kind of limit on when they can bring it back?"

Councilmember White said, "What I'm asking for us to do is to agree that we're giving it first reading, but with the understanding that there are finer points to be nailed down on this agreement and that we're not going to ask for the second and third reading to happen, until such time as that agreement has been completed which, again, should be in short order. The owners are in agreement with that."

Councilmember Moody said, "Well, I don't know that I can support that, for the simple reason that the neighborhood or somebody might object, and you don't have an agreement, so it can't come back to us for consideration. Is that what you're saying?"

Councilmember White said, "Well, no, if we couldn't come to a conclusion, I would vote against it, and I would certainly--"

Councilmember Moody said, "If we couldn't, I would have the right to vote against it, but I wouldn't want somebody to veto whether they could bring it back or not. That's really what we're asking, as I understand what's being said here."

Mayor Tecklenburg said, "That's a valid point."

Councilmember Moody said, "I'm just asking for a clarification."

Mayor Tecklenburg said, "You know, you all, we've had a number of occasions where we, as a Council, have agreed not to bring something back until we were all ready to bring it back. I don't know that we really need to officially have that in the motion for us, as gentlemen and a lady, to agree upon that. I think we're all in consensus on that point."

Councilmember Moody said, "Yes, I just want to be sure that we're not putting a restriction on the applicant coming through, or anybody else, because somebody doesn't agree. They ought to still be able to bring it to us. I hear, and I'll support what you're saying, but I didn't quite understand the wording of what you were asking for the motion to change."

Mayor Tecklenburg recognized Councilmember Seekings.

Councilmember Seekings said, "I'm going to support Councilmember White on this. He's worked really hard. I think what he's asking for really is procedural, not substantive, and that is, just don't bring it back until either an agreement is reached, or an agreement is not reached. Then, we can all go vote our own way, and I think they're so close to getting to an agreement, it will be much cleaner and better for this Council and the City and everybody else if we can bring an agreement back that there is between Gary (Councilmember White), as a representative, the developer, and the community. So, I think the request is procedural. I think we should support him in that. He'll be the first to tell you, if this all falls apart, then it will come to us, and we'll vote it up or down and see what we all do. So, I think that's where we are."

Mayor Tecklenburg recognized Councilmember Mitchell.

Councilmember Mitchell said, "I know we said we're going to hold it off, and I accepted the amendment, but I believe by next Council meeting, I think they should be able to bring it back, in my point of view, because that's almost another month. We don't have another meeting until the third Tuesday in June, so I believe, by that time, they should be able to bring it back, hopefully. That's a month almost."

Councilmember White said, "Given how far we've come in a month and a half, I can't imagine that we wouldn't have, we're literally down to sort of the finer points of discussion. We're in the minutia and the weeds and just basically working out. We're very close, so a month shouldn't be an issue."

Mayor Tecklenburg recognized Councilwoman Jackson.

Councilwoman Jackson said, "Yes, thank you, Mayor. I guess what I would just like to do is restate what Councilmember Moody has said, especially for my new first year colleagues, so that we can understand what we are agreeing to by accepting Councilmember Mitchell's deferred motion to do first reading and not second and third reading. The second and the third reading opportunities will be decided, the timing on that, will be decided by Councilmember White asking to have second and third reading, not some other third party reason that we're going to say the community has decided. So, we're going to trust that Councilmember White is bringing back second and third reading and then, we'll vote it up or down."

Mayor Tecklenburg said, "Is that clear enough?"

Mayor Tecklenburg recognized Councilmember Wagner.

Councilmember Wagner said, "If basically second reading is 30 days from now, we don't do second and third together, then we have third reading 60 days from now. So, I'm really not sure why we're doing it this way."

Councilmember White said, "We would not contemplate separating second and third reading. They would happen at the same time."

Councilmember Wagner said, "It just seems that we're putting a step in here that we don't need, but I usually support the Councilmember whose district it is, so I'm going to shut up."

Mayor Tecklenburg recognized Councilmember Lewis.

Councilmember Lewis said, "I certainly agree. I think that they could work that out, and I think, second and third reading, we can do it together. The other thing is, Mr. Mayor, I've been sitting here for 22 years. Councilmembers on the City Council floor are Councilmember Waring, Councilmember Gregorie or whomever, not Mr. White or Mr. Gregorie. I would appreciate that everybody be addressed as Councilmember, not Mister, Councilmember, okay? I've been sitting here for 22 years, and nobody has ever been addressed, except as Councilmember so and so and Mr. Mayor. So you all please make that clear that this needs to be on the Council floor. Thank you."

Mayor Tecklenburg said, "Thank you, Councilmember Lewis. So, we have a motion on the floor to give this first reading and to look to your lead to bring it back for second reading."

Councilmember Moody said, "Or any Councilmember can bring it back."

The Clerk said, "Second and third."

Mayor Tecklenburg said, "Okay. So, I would like to state, just for the record, we talked about the public benefit that the abandonment may have to our citizens. One that was mentioned was the provision that an equal amount of space be, in fact, preserved as public space and that there was a mention of the beautification of the street, but I just want to point out to Council, in my view, the most important benefit of that easement that allows for the electric switch gear is to allow our drainage project to get finished on Market Street. It's tied to the undergrounding of the utilities, but most importantly when that streetscape improvement is done, is when we will finally connect all of the gutters to the tunnel pump system, which will improve the drainage in Market Street and the surrounding streets so much better than it is right now. So, to me, that's an eminent public benefit."

On a motion of Councilmember Mitchell, seconded by Councilmember Waring, City Council voted unanimously to give first reading to the following bill and hold second and third readings until an agreement is reached.

An ordinance authorizing the Mayor to execute on behalf of the City Quit-Claim Deeds, approved as to form by the Office of Corporation Counsel, to the owners of those properties abutting each side of Hayne Street, running from Church Street to Anson Street, conveying to such owners one-half of the width of Hayne Street as said street abuts the respective owner's property, subject to any and all easements or other matters of record.

Mayor Tecklenburg said, "Next matter up is for a zoning of 2 Rose Lane in Cannonborough/Elliotborough. I think the Planning Department has a little introduction for us, Mr. Morgan."

Christopher Morgan said, "Thank you, Mr. Mayor and members of Council. We've got a couple of slides that we'll show you on the screen here. I'll wait for a minute and let those get up here."

Mayor Tecklenburg said, "Christopher, see if you can raise your microphone a little bit."

Mr. Morgan said, "There we go. Better? Alright. So, this property, 2 Rose Lane, is just north of Spring Street in the Cannonborough/Elliotborough neighborhood. As you can see in this image, this portion of Spring Street is zoned Limited Business. It's a mixture of residences and Commercial uses. The other side of Spring Street is commercial, as well. Then, the rear portion of the street, or the remainder of the street, is DR-2F, which is a Multi-Family Residential

District. The request is to rezone a portion of this site. The Planning Commission recommended for a 0.02 portion of an acre, 2/100 of an acre, of the site, which is just the portion that's immediately adjacent to Limited Business of the Spring Street front end properties. I'll show you what we have here with images of the building. Again, these are the Spring Street front-end commercially-zoned properties. This is a building at the back that has had Commercial uses in the past and then a Residential structure here. We've got a street view that gives you a little bit better, well, image of the plat, excuse me. The portion that would be rezoned relates to the building to the south, here in yellow, and then here is an image of the building right here, the building in green. Rose Lane going north, the Spring Street properties are to the right here and, again, you can see that, obviously, it's had some degree of Commercial use in the past on the property. This is surrounding area on the other side of Rose Lane. I believe that's what we've got and some other images adjacent to the north and to the south. So, the Planning Commission did recommend for LB zoning on the 2/100 of an acre immediately the most southern portion, where the green building I indicated is, and they recommend that approval to you."

Mayor Tecklenburg said, "Alright. Would anyone like to be heard on this matter?"

No one asked to speak.

The Clerk said, "I think someone is standing."

Mayor Tecklenburg said, "Please come forward."

1. Ian Tomlinson said he was the owner of 2 Rose Lane. He had been talking to City staff about the project for some time and originally had support. There were some questions about whether it was appropriate. He decided to pursue it and talk to the Neighborhood Association and got their support, as well as adjacent neighbors. This zoning change was appropriate, as the building was clearly built as a Commercial structure from the very beginning. According to the previous owner, it had a history of being a luncheonette. The project was a good idea for the neighborhood and that what really distinguished Cannonborough and Elliotborough from other neighborhoods was that it did have Commercial buildings sprinkled throughout the neighborhood. That was what made the neighborhood special, and he thought the majority of the community felt the same way.

Mayor Tecklenburg said, "Mr. Tomlinson, may I ask you a question? So, it was mentioned that some past use of the property was Commercial, but currently what is the use and what is your intended future use?"

Mr. Tomlinson said, "It is currently an apartment, and my intention is to move my office there. I am probably not going to keep the office there for all that long, but I'm hoping that it may be a little lunch joint or a sandwich shop, something like that, in the future."

Mayor Tecklenburg said, "Thank you. Would anyone else like to be heard?"

No one else asked to speak.

Mayor Tecklenburg said, "If not, it now comes before Council."

Councilwoman Jackson said, "I move for approval."

Councilmember Moody said, "Second."

Mayor Tecklenburg said, "We have a motion to approve and a second."

Mayor Tecklenburg recognized Councilmember Wagner.

Councilmember Wagner said, "Yes, I'm just totally floored that we're worrying about 800 square feet here and rezoning basically 871 square feet, out of a building twice that size. It blew my mind because, quite frankly, that's not very much room, guys. The first thing that came to mind, 'Boy, that's going to be one fine lemonade stand.' But, for the football guys, we're getting the first down by making an end run, and that's the total value of the mileage, the 2/10 of a mile, one first down around the end, not even all the way around, just maybe I'll tackle even. It just blew my mind that we were talking about 2/100 of an acre, and so, I was really interested in that. You showed the whole four things, and he said he wants it for an office. That's about the size of my office. I can understand if it's used for an office, that it would make total sense. I just didn't realize that we've dealt in hundredths of an acre before, but now I know. It just didn't seem to make any sense to me that it had been to the Planning Commission, too, but there again, I learn something every time I come in here."

Councilwoman Jackson said, "It's a rezoning."

Mayor Tecklenburg said, "Well, it is a change of zoning."

Mayor Tecklenburg recognized Councilmember Lewis.

Councilmember Lewis said, "Christopher, E-2 is between Spring and Bogard?"

Mr. Morgan said, "Yes, sir."

Councilmember Lewis said, "That's District 4, not District 3."

Mr. Morgan said, "We'll get that corrected. Yes, Councilmember Mitchell was making me aware of that."

Councilmember Lewis said, "It used to be District 3. They took it and put it in District 4."

Mr. Morgan said, "Yes, that was an error, so we'll make that correction."

Mayor Tecklenburg recognized Councilmember Seekings.

Councilmember Seekings said, "Can you go to the next slide, please? Okay, so, the red box is up for rezoning, right?"

Mr. Morgan said, "Yes."

Councilmember Seekings said, "The yellow box is the entirety of the property?"

Mr. Morgan said, "That is correct."

Councilmember Seekings said, "What's the yellow box zoning?"

Mr. Morgan said, "The yellow box, the remainder of the site, would remain the DR-2F."

Councilmember Seekings said, "So, what can they do with the 0.02 acres being rezoned that they couldn't otherwise do now with the storefront?"

Mr. Morgan said, "Commercial uses. In other words, he couldn't legally do Commercial uses in there without this rezoning. He couldn't have an office in there, for example."

Councilmember Seekings said, "So, it's going to be limited to that red box?"

Mr. Morgan said, "Yes, sir. That was the request."

Mayor Tecklenburg said, "So, one more slide, Christopher. If you will, the next slide that showed the plat. This yellow area is bigger than that red box."

Mr. Morgan said, "There was a discussion at Planning Commission, and it was actually advertised at Planning Commission, for the entire site. Then, there was a discussion at Planning Commission that the red box would work and, I believe, Mr. Tomlinson was comfortable with that, yes."

Mayor Tecklenburg said, "But is it the red box or the yellow box?"

Mr. Morgan said, "The red box, yes. I included the yellow box just to show what came in with the application, but it came in with the application."

Mayor Tecklenburg said, "So, it would really just be this portion here?"

Mr. Morgan said, "It's really just that portion. Yes, sir."

Mayor Tecklenburg said, "So, I would like to point out to Council that this is in the neighborhood where short term rentals are allowed in Commercial zoned properties, so it would permit him to, even though he has an office there, initially, it would allow conversion to a short term rental for this portion of the property. Isn't that correct? So, that does make a little bit of difference."

Mayor Tecklenburg recognized Councilmember Wagner followed by Councilmember Griffin.

Councilmember Wagner said, "I've got to come back to this because it says the total is .04, and they're wanting to rezone 0.02. That isn't half of that yellow box. It's just not."

Mr. Morgan said, "Right, and we do this also through our GIS. In other words, our GIS has these building footprints and so we would adjust the zoning line, such as you see on this image. It would just be adjusted to include this portion here, and that's what becomes our official Zoning Map. So, it doesn't have to follow the lot line. It doesn't even have to follow a building line."

Councilmember Wagner said, "That's still not half of that yellow box. I don't care."

Mayor Tecklenburg recognized Councilmember Griffin.

Councilmember Griffin said, "So, basically, this 0.02, it would be under the Commercial Short Term Rental Ordinance, not the Residential one that we just passed?"

Mr. Morgan said, "That's correct."

Councilmember Griffin said, "Sir, I've got a question for him. Have you thought about using this as a Commercial short term rental?"

Mr. Tomlinson said, "No, that was not my intention. Like I said, what makes this neighborhood special is that there are little sweet shops and a long history of small shops like this. Actually, I don't think it's a particularly attractive place to do a short term rental."

Mayor Tecklenburg recognized Councilwoman Jackson.

Councilwoman Jackson said, "Yes, I just want to say I happened to be at the Planning Commission as this item was heard by, and the decision made by the Planning Commission. It was very impressive that many of the gentlemen's neighbors came out and talked effusively about what an urban pioneer he had been to sort of reclaim the tradition of the mix of Commercial with Residential that they all were very enthused about. My husband used to go out and get donuts at the local store that was a block and a half from his house, so I think we need to listen to the community. I'm sorry none of them are here to support the owner. I know it's a teeny little space, but that's what all of the millennials are wanting to be part of, so I think we should just vote 'yes'."

Mayor Tecklenburg said, "Thanks for sharing that."

Mayor Tecklenburg recognized Councilmember Mitchell.

Councilmember Mitchell said, "Mayor, this is the district I represent right there, and a lot of you all don't know, but that was a little bar when I was growing up on Bogard Street. See, I know it very well."

There was laughter in the Chamber.

Councilmember Mitchell said, "I don't have a problem with it, the Neighborhood Association doesn't have a problem with it, so I think we just need to go on, and let's move on."

Councilmember Seekings said, "Call the question."

Mayor Tecklenburg said, "Alright. Are there any further comments?"

No one else asked to speak.

On a motion of Councilwoman Jackson, seconded by Councilmember Moody, City Council voted unanimously to give first reading to the following bill:

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 Rose Lane Unit C (Cannonborough/ Elliottborough - Peninsula) (approximately 0.02) (a portion of TMS #460-08-03-119) (Council District 3), be rezoned from Diverse Residential (DR-2F) classification to Limited Business (LB) classification. The property is owned by Ian Tomlinson.

Mayor Tecklenburg said, "Next up is E-3 and maybe we take E-3 and E-4 together, since they are related to each other."

Mr. Morgan said, "Yes, sir. These properties are located at the corner of Cannon Street and President Street, Cannon running roughly east/west here, President running north/south. Nearby includes a large parking area and then an older church that's being renovated for the Art Center here. There is a medical office building to the south and then a vacant lot that is zoned MU-2 Workforce Housing. There is a large MUSC parking deck catty-corner to it and then a row of more traditional Charleston single houses to the west and immediately north of the property.

The request is to rezone to the MU-1 Workforce Housing District, as well as change the height district from the 2.5-3.5 story to the 4 story. This is an image that shows the surrounding existing height districts. It's four stories on the other side of the street where you do have this large medical office building and this other MU property that could go up to four stories. Then, of course, you've got the parking deck on the corner here that's much larger. To the rear, where the more traditional historic houses now start, it would remain in the 2.5-3.5 district, but that is part of the request here. We have a couple of other images of the property here you see. I should also point out the City currently owns it and is working with getting the Spring/Cannon drainage in here. There's a large shaft that's here that will be perpetually accessible for maintenance and other work in that drainage tunnel. The development on the site would have to occur over to the northeast and to the rear here. The potential property owner is very well aware of that, as is that neighborhood. Here is a street view image of the site. You see the parking to the east and President Street to the west here, and this is taken from Cannon Street. Another image from the property, just to the left here of the vacant MU property across the street and the MUSC parking deck there. The Planning Commission recommends approval, as does staff, for both for both of these zoning changes."

Mayor Tecklenburg said, "Right. Would anyone like to be heard on this matter? Yes, sir."

1. Todd Richardson said he was the landscape architect for the project, and it was a very interesting and exciting opportunity. He thanked Councilmember Mitchell, as they had worked together often, and they had a great talk about the property and the history of it. He thanked staff, the Cannonborough/Elliotborough neighborhood, the Historic Charleston Foundation, and the Preservation Society, who were also excited about the project. It was a great opportunity to create a positive gateway with improved streetscapes and roadways into Cannonborough/Elliotborough. When they got into the details of what was actually developable, it was 0.288 acres by the time the corner piece was taken out, which would be used for a municipal utility use and a rear flag portion, which was not accessible. They analyzed the project in a number of different ways. Half of it was Limited Business, the other half General Business. The most recent use was parking, and before that it was a gas station. It had a continuous curb cut on Cannon and President, so they were going to work hard to clean it up and reduce all of the curb cuts. Their recommendation was a Mixed Use-1/Workforce Housing. The mix of uses and affordable and attainable housing was their number one goal. It was a net Commercial downzoning. A Mixed Use-1/Workforce Housing was a Limited Business Commercial use, and their goal was to have manageable neighborhood offices like Residential office uses in the Zoning Code. For the Residential, there was a slight upzoning, but it also gave them the opportunity to creatively integrate workforce housing into the equation. Opportunities for open space at the corner, though they couldn't build on it, they could still improve it. Hardscape, landscape, and lighting were all things they would integrate to improve the gateway feature. The property was odd and had a couple of issues. Most importantly, was the flood hazard zone which was at an elevation of 5 at the curb, and they were in an AE-13, which meant that the minimum finish floor height for any Residential use was at 14, so that was part of their request in the height district going up. They had a very limited footprint of about 6,500 square feet, and that was where they were able to construct on the property. They had conversations with the MUSC Women and Children's Service Building, the condominium building across the street, and a future use at

the corner which would most likely be four stories, so they needed that help to have that positive conversation and one that allowed them to have a good mix of uses. They were able to have Commercial flood proofing on the ground floor, so they really liked that opportunity. Their goal was to have a couple of small offices that could be accessed right off the sidewalk and provide opportunities for working class professional offices, which were desperately needed in the neighborhood.

Mayor Tecklenburg said, "Are there any questions? I have just one."

Mr. Richardson said, "Yes, sir."

Mayor Tecklenburg said, "How many units would you be able to put on the site?"

Mr. Richardson said, "It's tight. To do a balance, this project does have to go through TRC and BAR. You could probably get double digits, but it would be really tough. You still have to meet all of the site considerations for traffic, fire, building code, and our goal is to weave sensibly into the neighborhood fabric, so we're not talking about a big building proposal here. It would probably be a couple."

Mayor Tecklenburg said, "How many units do you think you will get on it?"

Mr. Richardson said, "I think we could probably get ten Residential units."

Mayor Tecklenburg said, "Okay. Thank you."

Mr. Richardson said, "Yes, sir."

Mayor Tecklenburg said, "Are there any other questions or would anybody else like to be heard on this matter? Yes, ma'am."

2. Erika Harrison said she had worked with the owners of 118 President Street, and they were excited about the opportunity for infill projects. One thing that had always been demonstrated on sites like this was that it took a ton of ingenuity and creativity. They thought this group would have the same level of dedication to make it an exciting element and corner to their property that was adjacent to it. With the height, they understood the issues with the flooding and understood the need for the change in the height zoning. This particular project would incorporate affordable housing, and that was something that was desperately needed in the City, so they were in support of the project and believed that it should pass.

Mayor Tecklenburg said, "Thank you. Would anyone else like to be heard?"

No one else asked to speak.

Mayor Tecklenburg said, "Hearing and seeing none, the matter comes before Council."

Councilmember Shahid said, "So moved."

Councilmember Lewis said, "Second."

Mayor Tecklenburg said, "We have a motion to approve. Is there any conversation or comments?"

Mayor Tecklenburg recognized Councilmember Waring followed by Councilmember Moody.

Councilmember Waring said, "I think it's been a wonderful presentation, workforce housing, everything that was said certainly could be done, but workforce housing, and the majority of the housing that is going to be there is going to be market rate housing."

Mayor Tecklenburg said, "Going to be what?"

Councilmember Waring said, "Market rate housing. This is a piece of property that the City owns. At our last meeting, we actually had a reduction in the requirement for street frontage for MU housing. We actually voted that into approval. That affects this site. It enables more units to go on the site, which I'm in favor of, but any time we can create permanent affordable housing on the Peninsula we should, and we can do that here. What we're doing is increasing the value of this property, in an exponential way, for a private citizen to come and do housing, and we shouldn't do that. As a matter of fact, I would say, 'shame on us' if we did do that. Finding property on the Peninsula to create permanent, affordable housing is just so difficult. Right now, this one is sliding through, and the transparency on this is not clear to all 12 Council people. I don't even know that we knew, well, I didn't, when we voted on reducing the minimum lot size for MU-1 that, that was affecting this property. It is a parcel of property that came in front of us a month ago, and the applicant, and that's what called my attention to it, was an individual applying for a zoning change on a piece of property owned by the City. It was deferred. Now, it's coming back, and you don't see that individual named on the description before you in your packets. This is a piece of property where an LPN can live and literally walk to Medical University. The Medical University is the largest, single employer in the City of Charleston. They have over 8,000 employees. I will challenge any Councilmember on this Council to find a parcel of land, within walking distance of Medical University, where we can create permanent affordable housing. There's been a lot of effort here, and I believe in our Planning Department, but there's been a lot of effort here to create the majority of units to be market rate housing. If we put that same effort towards creating affordable housing, then the awesome concern or problem, quite frankly, that we have with affordable housing would be met, simply met.

Mr. Richardson, you did a great job explaining that, and the whole time I was saying, 'Suppose that was being done for all of the units that would create permanent affordable housing?' When we had our National Cities Convention last year in the fall in Charlotte, and Councilmember Moody and myself attended a workshop, 'Creating Affordable Housing and Rising Markets,' that was the title of the workshop that we sat in. It was a panel. One person on the panel was the former Mayor of Boulder, Colorado, and if you closed your eyes, and you heard his presentation, you would have sworn he was speaking about the affordable housing problems in Charleston, South Carolina. We just got through talking about, and with great consternation, about spending \$3.25 million to buy Archer School, and we're trying to find a way to make affordable housing work here, work there. Now, we've got a piece that we own, and we're readying the table for the private sector to control 80 percent of the units that are going to go there. You say, 'Well, we'll do it on another site close by.' We don't have another site that's close by to be able to do this. So, I would hope that in the future, as a matter of fact, since we had the West Ashley Revitalization Plan that was submitted, there had been a lot of discussion, I've led it, about reducing the minimum lot size to create affordable housing. We've already done that. To show how quickly we did it, we didn't even realize we did it two weeks ago, when we reduced the minimum street frontage, all lot size if you will, on MU housing, but we haven't

done it on Single-Family. How long has it been since the West Ashley Revitalization Plan we voted on?”

Councilmember Griffin said, “February.”

Councilmember Waring continued, “It’s been since February. Thank you, Councilmember Griffin. So, when we accelerate things for market rate housing, and we heard the part about 20 percent is going to be workforce housing, workforce housing expires. It expires and we have a chance to create permanency because we own it. Now, Ms. Herdina, is this part of the DeReef Park exchange?”

Susan Herdina said, “Yes, sir.”

Councilmember Waring said, “It is part of the DeReef Park exchange and settlement. The City bought that corner for drainage, so we have an appraisal on it. We have an appraised value on it. We certainly can discern the valuation on this property, prior to this zoning change. It’s certainly going to be a whole lot less, the property value, than if we move forward with this zoning change. If we move forward with this zoning change, all we have done is increase, in an exponential way, the value of this property for the private landowner that, when we entered this agreement with that landowner, the person who is under contract to exchange this with, it was not at this valuation. We’re creating value, and we’re eliminating the opportunity to create permanent, affordable housing. We just had a great corporate citizen, we hope, when HANA and the developer work out this agreement with the closing of Hayne Street. As part of that agreement, the corporate citizen is stepping up and saying, ‘Hey, we’ll pay monies to a trust to create affordable housing,’ and this is something that we control right now, the City of Charleston controls right now.”

Mayor Tecklenburg said, “With all due respect, Councilmember Waring, we don’t really control it right now because we already have the agreement to transfer the ownership away from the City, as far as--”

Councilmember Waring said, “No, Mr. Mayor. In that agreement, it was not with this zoning being put on it.”

Mayor Tecklenburg said, “Well, that’s correct.”

Councilmember Waring said, “Well, if we’re going to put this zoning on it, then the financial consideration between the differential upon the existing zoning and, well, I won’t vote for this, by the way, but what we’re going to create for this potential buyer, owner, the taxpayers are being outmaneuvered. That’s what’s happening here.”

Mayor Tecklenburg said, “Well, I’m not sure that that’s, under General Business zoning you can build 26 units per acre, correct?”

Councilmember Waring said, “Let me see you get the ingress part, let me see you park that on this type of location. If we’re going to increase the height, let me see you do that on General Business.”

Mayor Tecklenburg said, “I hear you.”

Councilmember Waring said, “That is not, General Business and Limited Business, the reason we put a shaft there is because it’s at a lower elevation. That’s why we bought this property as a City, to put a major drainage shaft there. That’s why they want the height, right?”

Today, we're getting ready to vote on increasing the height. If we did not increase that height, and it remained at General Business and Limited Business, let me see them develop it. Let me see that person develop the existing property, with the existing zoning, without the height changes, and without the density increase that MU-1 brings. This is a good example of the effort. Right now, I'm talking about trying to create permanent affordable housing and, in a sense, you're pushing back against that. I would think that when it comes to an opportunity to create permanent affordable housing, we all would be pushing in the same direction."

Mayor Tecklenburg said, "I feel like we are, Councilmember Waring, because we're not eliminating the opportunity because we don't have the opportunity. We already came to an agreement to exchange this property in order to settle a lawsuit, so that was a decision Council made."

Councilmember Waring said, "We didn't agree to change it to MU-1. We didn't agree to reduce the minimum lot size. We did not agree to give it the height."

Mayor Tecklenburg said, "That's correct."

Councilmember Waring said, "The financial terms of that negotiation is entirely different when we do this."

Mayor Tecklenburg said, "That's correct."

Councilmember Waring said, "When we give that additional value to the private owner, the taxpayer has been taken advantage of."

Mayor Tecklenburg said, "Well, I would just share with you that they don't have to provide any affordable housing on the site right now."

Councilmember Waring said, "I agree. We're going to get two units out of ten, and we could get all ten."

Mayor Tecklenburg said, "Two units out of ten, that's two more than what we had before, and are we, it's up to the pleasure of Council if you all want to approve this or not."

Councilmember Waring said, "With all due respect, Mr. Mayor, this is a great example of pushback on creating affordable housing when we can. What we have done, as a matter of fact, I commend the private developer who saw the opportunity to create value, but to create that value, all 12 people on this Council had to have less information. If we not had this conversation at this very moment, this would have gone through with the snap of a finger. Hopefully, this has given all of us pause to say, 'You know what, we need to go back and sit down and discuss the terms of that agreement.' If the gentleman wants to keep it at General Business and Limited Business, which we agreed to, I'd vote for that because I voted for that agreement and the settlement, but I did not vote to give an exponential increase in the valuation that will eliminate potential, permanent affordable housing.

Now, if that landowner wants to pay the City the difference between what this property would appraise for with the zoning and height increase and minimum lot size, compared to what it would appraise for without those changes, then we have more money to go towards affordable housing. But, to do this without extra consideration, again, we are the stewards for the taxpayers. I don't know anybody, if they knew both sides of the transaction, if they knew the valuation with this zoning, and they knew the valuation that exists, that would give that differential away. The reason we would vote to do that is because we simply didn't know.

That's my role today, to give additional information on this one because I would love to see that kind of effort creating permanent affordable housing. It was a wonderful maneuver on the part of Planning to come up with the MU-1, to come up with the height increase, to come up with the reduced lot size. So, on this one, my colleagues on Council, I'm going to vote against this. We have an opportunity to, at least, get the financial difference between the current valuation should we go through with this vote. If we don't go through with the vote, then we finish the terms of the deal that we agreed to. If the developer doesn't want that property, then we sit down, and we work out a consideration with him, keep the property, and move forward, but don't give additional equity away. That's why I will vote against this one."

Mayor Tecklenburg recognized Councilmember Griffin.

Councilmember Griffin said, "Councilmember Waring, do you think that you would have voted 'yes' to this if you knew that they were going to go for this zoning change when they got the agreement in place?"

Councilmember Waring said, "I would not have."

Councilmember Griffin said, "Exactly, and I want to follow you up on that point, that it seems like we were kind of misled because we didn't know that this was where he was going. Now, if this isn't where he was going before, then it would be different, but what I'm seeing time and time again with developers in Charleston is they're not being transparent with us."

Councilmember Waring said, "Well, I've got to be frank, I don't think we were misled, in that regard. I think, when you start looking at the property, additionally, what could happen came up."

Councilmember Griffin said, "Right. But, I'm just saying I wish we knew more information when we voted the first time. If we knew everything, we wouldn't have to go back and talk about it, 'Well, I wish I would have known more because I probably would have voted differently.'"

Mayor Tecklenburg said, "Would anyone else like to be heard or make a comment?"

Mayor Tecklenburg recognized Councilmember Lewis.

Councilmember Lewis said, "I agree, Councilmember Waring. That's why we have staff people here. When they negotiate these deals, and they are thinking about doing these zoning changes, then Council needs to be briefed on the front end, not when the final package comes to us to vote on it because in some sense, we probably could have taken that same piece of property and produced some affordable housing on that. At least we would have the long term restrictions, but under this agreement, after a certain amount of years, the affordable housing piece is going to expire, and the developer is going to make money. They're going to make money either way now because they're near an institution where people are going to rent these properties. So, either way, this developer is going to make money, but we're going to get the short end of the stick because we voted on something that we had no knowledge that was going to take place later, and I agree with you on that."

Mayor Tecklenburg recognized Councilmember Seekings.

Councilmember Seekings said, "Thank you, Mr. Mayor. Frances or Susan, I just have a question. I don't remember specifically the terms of the DeReef Park settlement and the agreement for this land swap, but is a rezoning of it part of the condition of the settlement?"

Ms. Herdina said, "No."

Councilmember Seekings said, "So, this land is going across, what's holding up the transfer of title then? Why hasn't it already transferred title?"

Ms. Cantwell said, "The City still has the property. We're building the shaft, and we're going to need the entire site until the shaft is completed. I think what the landowner is knowing that we're contractually bound to convey the property to him or to it at some point in time. I think he's trying to, in tandem with the City's continuation of the construction project, get his development plan in order, so that when we are finally off of that site, he will be ready to go. Apparently, part of his development plan would require a rezoning from this Council which, as the Mayor indicated earlier, is discretionary with you."

Councilmember Seekings said, "Right, so, the points made tonight have been good points, and one of the things is we're about to zone it up. We're going to give him some more height and all of that stuff, but one thing that this Zoning MU-1 will allow and will require is either two units of affordable housing, or they can buy out of that, too, and put some money in. So, whether we do this tonight or not, it's going to come back to us at some point, through the development plan, to do something with this property. Our staff seems to think the height part of it is okay. So, I get the point that once we rezone it, this is a different piece of property than at the time that we made this deal, but we, as a City, when we made that deal, did not put a restriction on the change of zoning on it, too. So, this property is now going to go over to someone who made an arm's length deal to settle a piece of litigation. We, as a City, on the front end did not put any restriction on change of zoning, so whether it's this person or anybody, they would have the right to come before this Council. So, I just hope that whatever the vote is tonight, we debate this on the merits just of this property, not as part and parcel of we made a good or bad deal in settling the litigation because that's a done deal. We've already done that, right? That's part and parcel of what we're doing."

Mayor Tecklenburg said, "We've done that, and I would point out that under General Business zoning, they would be able to put seven units there with no requirement on affordable housing, and under the other zoning, the MU zoning, they can do eight units, and two would have to be affordable. So, Councilmember Waring, I believe we're all pushing together to help with affordable housing. We do not have inclusionary zoning in the City of Charleston or in the State of South Carolina. We've asked the State Legislature to empower us to have inclusionary zoning where we can dictate that someone, a developer, put affordable housing in. We don't have that authority, so it has to be done on a voluntary zoning basis, such as what he is requesting. We have an agreement to transfer the property to someone else, so we're not eliminating an opportunity because we don't have that opportunity anymore. We already made that decision, so it just seems to me, do we want to rezone so that the gentleman or the developer has to put in two affordable units, or allow him to keep it the way it is and do none? It seems to me that's what it comes down to."

Mayor Tecklenburg recognized Councilmember Waring.

Councilmember Waring said, "Well, I'm going to defer. Councilmember Moody hasn't had a chance to speak."

Mayor Tecklenburg said, "I'm sorry."

Mayor Tecklenburg recognized Councilmember Moody.

Councilmember Moody said, "My original question when I first raised my hand was why are we not developing this as affordable housing? The whole thing, but then, as I understand it, and you have kind of answered all of the questions that I had. We have got to sell this property. It's already sold in effect. Whatever price we sold it for or whatever we did, we've already done that. I understand if we didn't do anything tonight, because I was wanting this whole thing to be affordable housing when I first looked at it, but it sounds to me like we have sold this property. If we don't do anything, if we don't do this tonight, and we transfer this property to the developer or whoever it is and six months, when they get the property, they can come back and say, 'This is the best thing that I want to do, and we would upzone it or downzone it, some of it, and that's what we would get. So, we've already lost our affordable housing, I think.'"

Councilmember Waring said, "Well, let me try and answer that."

Councilmember Moody said, "Okay."

Councilmember Waring said, "Mr. Mayor has pushed that on me, and now my good friend with the bowtie is pushing it on me."

There was laughter in the Chamber.

Mayor Tecklenburg recognized Councilmember Waring.

Councilmember Waring said, "That property has a value, and we can ascertain that value. If we were to give that value under the current zoning to the landowner, they haven't been damaged. If that property appraises, in the current situation, after the drainage shaft is complete, and let's just throw out a number. Let's say it appraises for \$400,000, and we cut a check and give \$400,000 to that landowner, tell me, how has that landowner been damaged if we gave him or her the value that that property is worth? In effect, we bought the property based on the current zoning, and if the City were to come and put permanent affordable housing there, then we would have satisfied both things. We would have given the monetary value of the land, which appraisers can do. The moment we upzoned this property, even if we wanted to do that, it would cost us a whole lot more, and we all know that around this table. So, to say that our hands are tied, and we can't do better, I disagree with that. I simply disagree with that. I hope this is going to be a teachable moment for all of us in this room, in particular our Planning Department, because for us to enter into this exchange realizing the affordable problem we had for years, this isn't something that just came up. Any time we get to the point where we can have affordable housing, where people literally don't even have to use a bicycle to go to work, we ought to take advantage of that. This part about the sales job of we're creating two workforce housing units, we all know that expires, and we would have disposed of this land, as far as being affordable on a permanent basis. So, don't increase the equity on the value of this property without, if we're going to do this, then before the vote, we need to sit back with that developer and say when we entered into that, it had a monetary value. If this property were more valuable with the existing zoning, it wouldn't be in front of us right now."

Mayor Tecklenburg said, "If what now?"

Councilmember Waring said, "If this property were more valuable after that drainage shaft was put there with General Business and Limited Business, that person has already made that assessment that, 'You know I can't put but so much in that category there. I can't do so much with the limited height with the existing zoning. I can't do so much under General Business with the required street frontage on it.' So, they want to scrap that idea and then want to go to something else. If they want to go to something else as part of this transaction, they've

got to pay for it. We would have given additional value that belongs to the taxpayers to a developer, and we shouldn't do that. Now, if a developer buys a private piece of property and does that, just like the hotel folks in front of us today, fine, but without the additional monetary value that we're creating with this upzoning, we've just been taken advantage of."

Mayor Tecklenburg said, "With all due respect, can I ask you a question?"

Councilmember Waring said, "Go ahead."

Mayor Tecklenburg said, "He already has the right to buy the property from us, right?"

Councilmember Waring said, "I understand that."

Mayor Tecklenburg said, "So, what's different in what you're saying versus anybody else who comes in here and asked for a rezoning of their property, and by that rezoning they're able to develop the property more fully and increase the value? We don't ask them to pay the City a fee every time we rezone a property. You're basically saying anybody that rezones their property and has a result in net increase in value, ought to be paying the City cash money."

Councilmember Waring said, "You asked the question. Let me answer it, and let me answer it effectively. We own the property. That's the difference. All of these other things in here are private. Whose name, Mr. Mayor, currently, to date, is this property in title to?"

Mayor Tecklenburg said, "I understand, but our rights are limited because we have an agreement already."

Councilmember Waring said, "Mr. Mayor, in this transaction we limit his rights if we keep the zoning where it is. You see, these kinds of conversations, ladies and gentlemen, that we're having right now, we did not have that on the front end, and that is what's wrong, and additionally wrong, with this transaction. We didn't have this kind of conversation before."

Councilmember Mitchell was excused from the Chamber at 6:58 p.m.

Mayor Tecklenburg said, "Right, sir."

Mayor Tecklenburg recognized Councilmember Shahid.

Councilmember Shahid said, "Mr. Mayor, maybe I can get some clarification on this. The transaction with this property, as I understand it, was part of this long going legal battle that was in Federal Court with this park and questions regarding who owned the park, the use of this park etcetera, etcetera. I don't want to rehash the litigation. So, at some point in time, and someone please correct me if I'm wrong on this, but at some point in time the City, to settle this lawsuit, entered into an agreement to transfer ownership of this property. Is that correct? So, legally whatever we do here tonight, regardless, that property is going to be transferred to this new owner, and is anything that we do here tonight going to change the terms of that transfer? Is it going to change the property value?"

Councilmember Waring said, "Yes."

Councilmember Shahid said, "Well, that's what I'm trying to find out. Are we going to be paying more or paying less for the transfer of this property regarding this zoning?"

Councilmember Waring said, "We increased the value of the property with the zoning."

Councilmember Shahid said, "Not necessarily, I understand the value is going to increase at some particular point. My question is, is the City of Charleston going to be paying more or paying less as a result of this transaction, regardless of what we do with this zoning change?"

Mayor Tecklenburg said, "Could I ask our Counsel to address the question?"

Councilmember Shahid said, "Yes, I just need someone from Corporation Counsel to address that."

Councilmember Gregorie said, "There's another question, too."

Councilmember Waring said, "It's a question of valuation."

Councilmember Gregorie said, "Yes, it's valuation."

Councilmember Waring said, "It's not a legal term. It's a question of valuation."

Councilmember Shahid said, "No, I want to know, for this part of the transaction, that if by voting for this zoning change, do we owe him more money, or do we lose more money in part of the transaction?"

Ms. Herdina said, "Well, the deal was struck. The settlement was struck, as I think Councilmember Seekings may have mentioned, at least. The agreement was struck with the developer at least a year ago, I believe, when we settled the DeReef Park litigation. That was a combination of property swaps, and the developer of this property donated the Shiloh property to help settle the DeReef Park litigation and so, in addition to having DeReef Park, we now have the Shiloh property, which was an effort to resolve the litigation that had been brought by the neighborhood in the DeReef Park case. When the negotiations and the settlement came about, the Shiloh property was put on the table by the developer, and the City put on the table the Cannon Street properties. That was the transaction. There were no strings attached to that, with respect to zoning, and while the developer, basically, I think it had made the suggestion of what he wanted to do, the lawyers made it very clear that there were no promises with regard to zoning, that that was a matter that was ultimately to be decided by City Council. So, that's where we are today, and the developer has obviously come through with his part of the settlement. We have Shiloh property, we are moving on upgrading the Praise House, and that settlement is now done, and this is the last piece of that, but again, there were no promises made on the zoning. That was, ultimately, up to you all."

Councilmember Mitchell returned to the Chamber at 7:02 p.m.

Mayor Tecklenburg recognized Councilmember Moody.

Councilmember Shahid said, "Can I just finish with my question first?"

Councilmember Moody said, "While you're there, Ms. Herdina, but for the fact that we needed to sink a shaft on that property, and we needed the rest of the property for laydown area for that shaft construction, we would have probably already deeded this property to him. Is that a reasonable statement?"

Ms. Herdina said, "Well, I think that is a fair statement. We were not going to transfer the property until that work was done."

Councilmember Moody said, "Until we got through with that shaft because we needed the whole piece of property."

Ms. Herdina said, "Correct."

Councilmember Moody said, "But the property was already going at the value and the zoning and whatever was there, they were already going to get. I think we're kind of confusing a couple of things here. I believe that we've got to transfer this property, and once that's done, he can come back and get exactly the same thing. We wouldn't owe him anything, and he wouldn't owe us anything and assuming, I think that's a good purpose. If the City didn't have access, or it didn't have its name on the piece of property right now, I think you're right, Councilmember Waring, but the fact that we've already done this deal, I think it's--"

Councilmember Waring said, "We need to consummate the transaction."

Mayor Tecklenburg said, "Councilmember Griffin is next, please."

Councilmember Moody said, "So, we're just letting this guy get ahead of his process a little bit. That's really what I think we're doing."

Mayor Tecklenburg recognized Councilmember Griffin.

Councilmember Griffin said, "I was just going to ask Ms. Herdina. I was kind of confused there. You said that they did bring up some sort of zoning when you all were meeting?"

Ms. Herdina said, "At the meetings, they basically asked if we would be willing to agree to this and, at that point in time, we said we can't promise any kind of zoning. At that point in time, I don't think his plans were set one way or the other. He threw it out as an option, and we simply said again, 'that is your call, it's ultimately your decision what you are willing to rezone this property as.' We were not going to make any agreements, and there's nothing in the settlement agreements with respect to the zoning."

Councilmember Griffin said, "I just wish we would have known that he asked that."

Mayor Tecklenburg recognized Councilmember Wagner followed by Councilmember Waring.

Councilmember Wagner said, "Okay, we own a piece of property, and we have an agreement to sell it, no zoning, no anything, and I'm trying to, in my mind, justify why the City, if the agreement has already been made, why are we here talking about changing the zoning? Let's just transfer the property, and let the guy come down, put in for what he wants, and the game's over. We technically are out of the game. We have no responsibility that I've heard to have a zoned piece of property other than what we sold him. Is that correct?"

Ms. Herdina said, "That's correct."

Councilmember Wagner said, "So, when I saw our name on here, it immediately brought that question to mind."

Mayor Tecklenburg said, "It has, and that's what's caused this to be a little confusing."

Mayor Tecklenburg recognized Councilmember Waring.

Councilmember Waring said, "I said earlier on, if we transfer this property with the existing zoning, I would vote for that because that's the terms of the transaction and the settlement that we all agreed to. You're right, Councilmember Moody, if this property transferred to this owner, under the terms that we agreed to, under this existing zoning, you have no argument, no comment, out of me. If that applicant wants to come back, let that applicant come back, but I submit that if they keep the zoning where it is, that would be one of the most difficult pieces of property to develop on the Peninsula. If they don't get a height increase, if they don't get an increase in density, if they can't reduce the frontage on Cannon Street and all of those things under General Business, they're going to have, under Limited Business, a whole lot more difficulty doing it. They know that. We just didn't know that. So, I'm in favor of transferring. If you want to transfer the property and consummate the transaction on what we agreed to, Ms. Herdina, and Mr. Mayor, with the existing zoning in place, let's vote for it right now."

Mayor Tecklenburg recognized Councilmember Seekings followed by Councilmember Gregorie and Councilwoman Jackson.

Councilmember Gregorie said, "I think I'm before Councilmember Seekings."

Councilmember Seekings said, "Yes, I've spoken, so I'll defer to Councilmember Gregorie."

Councilmember Gregorie said, "Not defer, that's the rule."

Mayor Tecklenburg said, "Well, I saw his hand first, I'm sorry."

Mayor Tecklenburg recognized Councilmember Gregorie.

Councilmember Gregorie said, "Just a couple of questions. So, we're saying that we don't own the property?"

Ms. Herdina said, "That's correct."

Councilmember Gregorie said, "So, this is not correct in here?"

Ms. Herdina said, "I don't recall how it is."

Councilmember Gregorie said, "It says we own it."

Ms. Herdina said, "I'm sorry, we do own the property at this point. We wanted to hold onto it until the shaft and the infrastructure matters that we needed were completed. We did not want to lose control of it, at that point, until that had been completed to our satisfaction."

Councilmember Gregorie said, "That's understandable, but what I'm trying to make clear is, who owns the property?"

Ms. Herdina said, "Currently, the City owns the property."

Councilmember Gregorie said, "We own the property."

Ms. Herdina said, "Correct."

Councilmember Gregorie said, "So, the property has not been transferred. There's an agreement, but we're still the owners of the property. The second question is, do we have any

sense of the difference in the valuation of the property if we make these zoning changes? Just simple questions I have, folks.”

Mayor Tecklenburg said, “Not that I’m aware of.”

Ms. Herdina said, “I don’t know that at this point. We would have to go look at that.”

Councilmember Gregorie said, “So, are we flying blind here?”

Mayor Tecklenburg said, “Not really, because it doesn’t matter. He’s going to get the property anyway.”

Councilmember Gregorie said, “Well, Mayor, I don’t know--”

Mayor Tecklenburg said, “So, anyway, if you think we ought to wait, let’s just vote it down. Are you all ready to call the question?”

Councilmember Gregorie said, “Well, I’m not finished talking yet.”

There was laughter in the Chamber.

Mayor Tecklenburg said, “Councilmember Gregorie, you still have the floor.”

Councilmember Gregorie said, “Thank you, Mr. Mayor. So, we’re in an agreement, and what we’re saying is that we need to honor the terms of the agreement, right?”

Ms. Herdina said, “That’s correct, but with the caveat of no promises on zoning.”

Councilmember Gregorie said, “Okay, if we didn’t honor the terms of the agreement, what would that do?”

Ms. Herdina said, “Well, we would be in breach of the settlement agreement, and it could potentially unravel all aspects of it. We could be responsible for damages that we would owe the developer, and I can’t even speculate what.”

Councilmember Gregorie said, “Yes, but it wouldn’t do anything to the settlement with respect to DeReef Park?”

Ms. Herdina said, “I’m sorry.”

Councilmember Gregorie said, “It would not affect the DeReef Park settlement though?”

Ms. Herdina said, “It very much could. It very much would. It would unwind that whole deal.”

Councilmember Gregorie said, “Thank you.”

Mayor Tecklenburg recognized Councilwoman Jackson followed by Councilmember Seekings.

Councilwoman Jackson said, “Yes, thank you. I’m trying to follow all of the bouncing balls, and I have done my homework and appreciated that the reason that the City still owned this property, because it was confusing to me when I saw the City’s name on it as an applicant, essentially. So, I think what we’re talking about, I have no interest in changing the terms of a contract that obligates us to a settlement. I think that’s not even worth talking about, and really,

what we're doing right now is just sort of punishing this developer for getting his ducks in a row and trying to be ready to build when the property does transfer. So, if we want him to be that linear and transfer the property with the existing zoning and then come back and get this new zoning, that's fine. It doesn't make sense to me, on a timeline, why we wouldn't want good things to happen in this part of the City as quickly as possible. In my old job in affordable housing development, this would have been called reworking the deal, and we don't do that, so I'm clueless about why we're continuing this conversation."

Mayor Tecklenburg recognized Councilmember Seekings.

Councilmember Mitchell said, "Call for the question."

Mayor Tecklenburg recognized Councilmember Seekings.

Councilmember Seekings said, "Thank you, Mr. Mayor. I think we've made this a lot more complicated than it probably is. This sort of falls under the category that no good deed goes unpunished. We were in litigation with the current applicant under this property. We settled the litigation. We agreed to a land swap, and as an accommodation, the Plaintiff, who is suing the City, agreed to not take title back until we finished doing, among other things, access shafts to relieve flooding in the area. The only reason that this property hasn't been transferred is because we want to be able to control that property for access in that shaft. So, the whole question of ownership, it's a technical point. We currently do technically own it, but only because, in the settlement of a lawsuit for value, this applicant agreed to take this property and then, as an accommodation, allowed us to still have access to it, when he had every right to that property in exchange for him, among other things, dismissing the litigation, right?"

Ms. Herdina said, "That's correct."

Councilmember Seekings continued, "So, if this all unravels, we go back, start from scratch, and the only difference between voting on it tonight or somewhere down the road is that the drainage project will be done, we'll put off the inevitable that he's going to come back and apply, and this project will just be six months down the road, more expensive to build. The affordable housing will be more expensive to build. A gateway into downtown will not get the attention on a very oddly shaped property, which is a pretty cool little project, that he's at least got in his mind. So, I'm prepared to vote on it. I'll be prepared to vote on it in six months. I don't think anything changes. The only thing that changes is if we, as a Council, try to unravel this, then we're going to have to send it back to our lawyers. They'll have to go sit down with a judge and figure it all out, and I don't think that's really what we're trying to do here tonight."

Councilmember Mitchell said, "Call for the question."

Mayor Tecklenburg said, "I was just allowing Councilmember Seekings to finish because I had called on him prior to your call. We will call for the question."

On a motion of Councilmember Shahid, seconded by Councilmember Lewis, City Council voted to give first reading to the following bills:

An ordinance to amend the Zoning Ordinance of the City of Charleston by changing the Zone Map, which is a part thereof, so that 144 & 146 Cannon Street (Peninsula) (approximately 0.288 acre) (TMS #460-11-04-151 and 460-11-04-150) (Council District 4), be rezoned from Limited Business and General Business (LB and GB) classification to Mixed-Use/Workforce Housing (MU-1/WH) classification. The property is owned by the City of Charleston.

An ordinance to amend the Zoning Ordinance of the City of Charleston by changing the Zone Map, which is a part thereof, so that 144 & 146 Cannon Street (Peninsula) (approximately 0.288 acre) (TMS #460-11-04-151 and 460-11-04-150) (Council District 4), be rezoned from the 2.5-3.5 Old City Height District classification to the 4 Old City Height District classification. The property is owned by the City of Charleston.

The vote was not unanimous. Councilmembers Shealy, Wagner, Gregorie, Waring, Griffin, and Moody voted nay.

Councilmember Waring said, "Wait a minute. Can we get a roll call vote on that? I call for a roll call. I think we need to be on the--"

The Clerk said, "We have four Councilmembers that voted against it."

Councilmember Waring said, "I request a roll call vote, Madam Clerk."

The Clerk said, "Alright. Councilmember White."

Councilmember White said, "Aye."

Councilmember Shealy said, 'Nay';

Councilmember Lewis said, 'Aye';

Councilmember Mitchell said, 'Aye';

Councilmember Wagner said, 'Nay';

Councilmember Gregorie said, "Nay."

Councilmember Waring said, "Nay."

Councilmember Seekings said, "Aye."

Councilmember Shahid said, "Aye."

Councilmember Griffin said, "Nay."

Councilmember Moody said, "Nay."

Councilwoman Jackson said, "Aye."

Mayor Tecklenburg said, "Aye."

The Clerk said, "So, we didn't have all of these hands, but we now have six Councilmembers voting 'nay'. We have 13 present, so we have 7."

Mayor Tecklenburg said, "The motion carries."

Councilmember Waring said, "Thank you, Madam Clerk."

Mayor Tecklenburg said, "Thank you. Next, we'll move to E-5, which is a changing of the Zone Map on Clements Ferry Road."

Mr. Morgan said, "This is a piece of property at the corner of Clements Ferry Road and I-526. It came before you all a few months ago and was deferred. To orient you to the map, this is I-526 running roughly east and west, Clements Ferry Road running north and south. Some of the surrounding zonings are General Business, a Planned Unit Development to the north, marshes zoned conservation, and then unincorporated areas of Berkeley County, as well as more General Business and Gathering Place. The request is to rezone from Gathering Place to General Business. We have some aerial images. From our staff assessment, it looks like about half of the property is probably some degree of critical area wetlands, but that's nothing scientific there. I don't think there are surveys at this point in time, but that would mean, of course, that the densities here would be half of what they would be because they are calculated based on the highland, as opposed to the entire acreage of the site. So, the Planning Commission and the staff recommended for approval of this rezoning to General Business."

Mayor Tecklenburg said, "Alright. Would anyone like to be heard on this matter? Yes, sir."

1. Sean Prendergast supported the downzoning because it decreased the densities, decreased the scale, and gave the City, the developers, and the future development of the property known quantities. By downzoning, they could have some schematics, design plans, and they could work with adjacent property owners that were already zoned General Business. They could create access roads, get utilities placed, and move forward. His history with the property went back to 2002. He worked with Shirley Taylor (SCT Properties). The City came to them in 2005 or 2006 and asked if they would annex into the City under Gathering Place. He thought they were the first group of properties that annexed into the City of Charleston. Over the years, different things occurred, and Gathering Place became a lot more impractical to develop under, and some of the adjacent property owners had already downzoned. They would appreciate some clarity on what their zoning designation would be at this time and in the future because the City had been direct about how it would be extremely difficult to develop under the present zoning, so they requested support of their rezoning application.

Mayor Tecklenburg said, "Alright. Would anyone else like to be heard on this matter?"

No one else asked to speak.

Mayor Tecklenburg said, "Hearing none, it goes to Council."

Mayor Tecklenburg recognized Councilmember White.

Councilmember White said, "Mr. Mayor, I'm going to move that we deny the rezoning for this item at this time."

Councilmember Waring said, "I'll second."

Mayor Tecklenburg said, "We have a motion to deny."

Mayor Tecklenburg recognized Councilmember White.

Councilmember White said, "Let me just explain, a little bit, why I made the motion. I met with Mr. Prendergast several months ago, we discussed this site, and what some of you may or may not know, but what's very, very critical to understand about this site, Christopher, I

don't know if you could point to where the ingress/egress is for this site, but at that point, it's a right-in/right-out only. The DOT has placed bollards in the middle of Clements Ferry Road to eliminate anyone coming out of this site and turning left. If this site was to be redeveloped let's say as apartments, if of the 60-plus acres, it's highlands at 19 units an acre, that's about 600 apartments on that site. If that's developed in a right-in/right-out, all of that traffic only has one option to get on I-526 and that's to turn right, go down the street about, well, to the next left, turn around Marina Drive, make a U-turn and come back, and get on I-526, or immediately make a U-turn as soon as they pull out of there, in some form or fashion. Oh, by the way, at Marina Drive, there are currently discussions on a property that's in Berkeley County, not in the City of Charleston, to put a Flying J Truck Stop. For us to rezone at this time, with those conditions that currently exist as we know them, would be irresponsible. I'm all for property owners' rights, and if Mr. Prendergast wants to develop this site as Gathering Place, he can do some apartments, but he's also going to have to do some other things on it, of which they've chosen not to do at this point in time. I'm not against, at some point, this property being rezoned for a use, but until, and I shared this with Mr. Prendergast, that intersection is fixed, or a correction is made to allow for an appropriate ingress and egress on that site that doesn't create a very, very dangerous situation, I just can't, in good conscience, support that. So, I'm not saying 'no' forever, but I am saying 'no' at this point, until such time as there can be a conclusion made on that intersection for either a light or some other way to exit."

Mayor Tecklenburg recognized Councilmember Moody.

Councilmember Moody said, "Mr. Morgan, in developing this property, whatever you do on this property, whether it's Gathering Place or General Business, you've still got the same ingress/egress problem, I think. One may be worse or--"

Councilmember White said, "That all right there is a new neighborhood development happening currently. This is a problem waiting to happen. With Gathering Place, if they were to develop it with what they're currently entitled, yes, the same exact thing would occur. The difference is, is that to develop it as Gathering Place, there would be additional requirements to develop this site. The Gathering Place zoning was about live/work, and it's about putting mixes of uses in the property that eliminate this need for travel, but they don't desire to do that at this point. I think Mr. Prendergast made the comment that it's not financially feasible to develop it under those terms. So, if it's gone to General Business, it is simply an apartment complex, and you will put 1,200 new car trips a day all right-in/right-out."

Councilmember Moody said, "Well, I'm trying to figure out here whether we're talking about just more car trips, but even if we developed it as 1,000 apartments, it would still have to have proper ingress and egress built into this thing. So, whether they put a street there with a stop sign with DOT and get all of that, that would have to be done before it's developed anyway. Would it not?"

Councilmember White said, "In theory, yes, but they put that neighborhood at that intersection without putting a light in. There's a light that exists right at the foot of that intersection. It's probably 75 feet. I don't think DOT will ever give you a light there."

Councilmember Moody said, "The property is developed, and so it seems to me if it's going through our process, it's got to have proper ingress and egress. You can't just have a right turn, no left turn, out of this thing. Somehow, it's got to be, or else you couldn't develop it, I would think. Where am I in my thinking here?"

Mr. Morgan said, "Yes, sir. To be permitted, you would have to show how your access works. It would have to show the encroachment permits from the DOT, that kind of thing. Yes, sir."

Councilmember Moody said, "Yes, that's what I'm saying."

Councilmember White said, "I guess my point is, if that's the case, why would there not already be a light there? There's a neighborhood that's already there. My guess is that DOT has said we're not going to put a light there, but they did put right-in/right-out because when that neighborhood, before that neighborhood was put into place and permitted, that right-in/right-out was enforced. Those bollards weren't there. When that neighborhood went in, I suspect what happened is DOT said, 'You can put your neighborhood in there, but you're right-in/right-out only', and that's what caused those bollards to go up. So, if we're going to do it more, why wouldn't the DOT have said, 'Alright. Well, you guys put a light there', when they originally did it. So, my point is that I'm not trying to say that I don't want to give these guys the opportunity to develop this property. They've owned it for a long time and haven't been able to do anything with it. However, what I can say is at this point, until that intersection has got a permanent solution that doesn't create a dangerous problem, I just can't simply say, in good conscience, let's go ahead and change the zoning that will allow for, effectively, an entitlement of a 600-unit apartment complex."

Mayor Tecklenburg said, "With Council's indulgence, Mr. Prendergast would like to offer some more information."

Mr. Prendergast said that Councilmember White brought up some great points that were valid, but their property had already been approved for 318 apartments on seven acres under the Gathering Place District zoning, and 800 apartments could be fit on the property. There were 69 acres of total highland, somewhere around 28 acres with about six acres on the front side. Governor's Cay was approved in that same timeline under a Planned Unit Development. At that time, with the City's support and County's support, they received letters from DOT that a traffic light would be put at Forrest Drive. Over the years, different things occurred, zonings changed, Beazer was bought, and it was owned by Lennar, and traffic was coming to that intersection. There were 240 units at Governor's Cay. Over the last three to four years, they had been working on it, first with, Frank Finlaw, who was running the development, currently it was an individual at Lennar, Shawn Howell, Henry Rivers, the Simmons Family, Eli Hyman, about solving that corridor and figuring out what a solution was. Over the last two years, they had spent about \$40,000 with traffic consultants, traffic engineers, Hussey Gay Bell, working with DOT. They had submitted several different plans to DOT, and now they thought they had a solution. They were going to move the access point down closer to a small bridge that went over the marshland and have a traffic light right past the Simmons property, but there was an issue with putting a traffic light at Forrest Drive. It was called an arms manual. It was what they used regarding traffic lights, but it didn't make sense for the long term solution of Clements Ferry Road. The new solution proposed was that it would be moved down further like Long Point Road going onto I-526. There would be a solid median going onto I-526, and that would solve a lot of the problems. The DOT plan with the temporary barriers was just a temporary solution that was not in their plans. The Clements Ferry road improvements stopped at Daniel Island Marina Drive, and didn't go down any further. That was why they had been working with them for three years to come up with a design plan to facilitate a solution. They weren't going to be able to develop the property or sell the property without an access issue solved. They

had lost numerous contracts. No apartment developer would come into that property without a signalized access. For them, this was just a start of another long term process to get community support, work with the City, work with DOT, and work with Council to come up with a solution long term. It would take three to five years, but it needed to start with them understanding what they could do with the property, and that was what they were asking for.

Mayor Tecklenburg said, "Thank you, sir."

Mayor Tecklenburg recognized Councilmember White.

Councilmember White said, "I can appreciate that input. Thank you, and I will say that if you were to be able to go through that process and put a light in, the dynamics of what we just discussed certainly change. I'm certainly amenable to hearing that discussion at that point in time. At this point in time, it's right now just a discussion point. The DOT hasn't signed off, and we know how hard the DOT can be on adding lights. We've been trying to figure out whether we're going to put a light on Marina Drive or Enterprise Drive, and the fire station and everything else. We've been trying to fight for a light in Beresford Hall for three or four years, and we still haven't gotten it yet. My point in saying that is at the point in time when you get DOT's approval to do what you've described, I think that we're prepared to have a discussion around the rezoning that might make sense at that point. Without it, again, I just can't support it tonight."

Mayor Tecklenburg said, "Is there any other discussion from Council?"

No one else asked to speak.

Mayor Tecklenburg said, "The motion on the floor is to deny the rezoning."

On a motion of Councilmember White, seconded by Councilmember Waring, City Council voted to deny Item E-5.

An ordinance to amend the Zoning Ordinance of the City of Charleston by changing the Zone Map, which is a part thereof, so that property located on Clements Ferry Road at I-526 (Cainhoy) (approximately 67.98 acres) (TMS #271-00-02-024, 271-00-02-025, 271-00-02-026 and 271-00-02-069) (Council District 1), be rezoned from Gathering Place (GP) classification to General Business (GB) classification. The property is owned by Hotel Holdings LLC, SCT Properties LLC and Joka III LLC.

The vote was not unanimous. Councilmembers Lewis, Mitchell, Seekings, and Moody voted nay.

The Clerk said, "Can you raise your hands, or do you want me to call the roll? There were other people. I saw hands."

Councilmember Griffin said, "For yea?"

Councilmember Seekings said, "No, for nay."

Mayor Tecklenburg said, "Nay votes, please raise your hand. Councilmembers Mitchell, Seekings, Moody, and Lewis."

The Clerk said, "Okay, thank you very much."

Councilmember Lewis said, "I voted nay."

The Clerk said, "Councilmember Lewis."

Mayor Tecklenburg said, "Well, let's call the roll."

Councilmember Seekings said, "The motion is to deny the rezoning, right? To keep it?"

The Clerk said, "Yes, to deny. Councilmember White."

Councilmember White said, "Aye."

Councilmember Shealy said, "Aye."

Councilmember Lewis said, "Nay."

Councilmember Mitchell said, "Nay."

Councilmember Wagner said, "Aye."

Councilmember Gregorie said, "Aye."

Councilmember Waring said, "Aye."

Councilmember Seekings said, "Nay."

Councilmember Shahid said, "Yea."

Councilmember Waring said, "What is that?"

Councilmember Shahid said, "'Yea' is a form of 'Aye'."

There was laughter in the Chamber.

The Clerk said, "So, what is your vote?"

Councilmember Shahid said, "Yes."

The Clerk said, "Councilmember Griffin."

Councilmember Griffin said, "Aye."

Councilmember Moody said, "Nay."

Councilwoman Jackson said, "Aye."

Mayor Tecklenburg said, "Aye."

There was laughter in the Chamber.

Mayor Tecklenburg said, "Alright. The motion passes to deny. Alright. Mr. Prendergast, respectfully, we'll be happy to talk to you when we get straight with the DOT. Approval of City Council minutes from April 24th and May 8th."

The Clerk said, "We've got one more."

Mayor Tecklenburg said, "Oh, we've got one more. We've got a rezoning. Sorry about that, Mr. Morgan."

Mr. Morgan said, "Yes, sir. This is a recent annexation in the Ashleyville-Maryville neighborhood. It's an existing vacant lot that a new house would be constructed on. The request is for SR-4 which would allow, based on the lot size, the Single-Family construction at that location."

Mayor Tecklenburg said, "Okay. Would anyone like to be heard on this matter?"

No one asked to speak.

Councilmember Mitchell said, "Move for approval."

Councilmember Shealy said, "Second."

Mayor Tecklenburg said, "Is there any discussion?"

The Clerk said, "Councilmember Mitchell, you moved to approve. Who was the second?"

Councilmember Shealy said, "Right here."

The Clerk said, "Thank you."

Mayor Tecklenburg said, "Is there any discussion?"

No one asked to speak.

On a motion of Councilmember Mitchell, seconded by Councilmember Shealy, City Council voted to give second reading to the following bill:

An ordinance to amend the Zoning Ordinance of the City of Charleston by changing the Zone Map, which is a part thereof, so that 5th Avenue and Diana Street (West Ashley) (0.115 acre) (TMS #418-05-00-201) (Council District 7), be zoned Single-Family Residential (SR-4) classification. The property is owned by Atlantic Management LLC.

Mayor Tecklenburg said, "So, next, we'll move to the approval of our City Council minutes from April 24, 2018 and May 8, 2018."

Councilmember Griffin said, "Move for approval."

Councilmember Gregorie said, "Second."

Mayor Tecklenburg said, "We have a motion to approve and a second. Are there any additions, deletions, or suggestions?"

No one asked to speak.

On a motion of Councilmember Griffin, seconded by Councilmember Gregorie, City Council voted unanimously to approve the minutes of the April 24, 2018 and May 8, 2018 City Council meetings.

The Clerk said, "That was for two sets of minutes."

Mayor Tecklenburg said, "That's for two sets of minutes, April 24th and May 8th. Next, is our--"

Councilmember Waring said, "Mr. Mayor, I'm going to ask your pleasure and hopefully Council's pleasure because I have to leave early, and I'm wondering if we could move up on the agenda, the presentation on the Tourism fees."

Mayor Tecklenburg said, "On the which fee?"

Councilmember Waring said, "On the Tourism fees, Item (b) under I."

Mayor Tecklenburg said, "I(b)?"

Councilmember Waring said, "Yes, sir."

Mayor Tecklenburg said, "Okay, the presentation on the Tourism fees from Ms. Wharton. Is there any objection from Council to amend our agenda to move up I(b) prior to our Citizens' Participation?"

There were no objections.

Councilmember Waring said, "Correct. Yes, sir. Thank you."

Mayor Tecklenburg said, "Alright. Ms. Wharton, are you prepared to come forward and make that presentation, please?"

Amy Wharton said, "So, everybody ready? Councilmember Waring had asked that I present on Tourism Funds, especially for the newer Councilmembers, so that you would all be informed on the laws and how we spend the money.

So, there are three major revenues with similar, but slightly different rules for those revenues. We have State Accommodations Tax, Municipal Accommodations Tax, and we have Hospitality. State Accommodations, I'm going to try to go through this, so if I'm going too fast, slow me down because you know that I do that. State Accommodations Tax, is a mandatory two percent charge applied to all accommodations statewide. These dollars are distributed back to cities and counties by a formula based on point of sale. Then, there's the definition of accommodations there, as well, and I can send you all this, my PowerPoint presentation, through e-mail, too, so you will have that. State law dictates to us how we allocate those funds. The first \$25,000 goes to the General Fund. After that, five percent goes to the General Fund again, 30 percent goes to a special fund for advertising and promotion of tourism, and it also states that we should give those funds to an organization already established in promoting tourism, so we give those funds to the Charleston Area CVB. The remaining 65 percent goes to a special fund for tourism-related expenditures. The majority of that 65 percent is what we give in A-tax grants to non-profit organizations. The State also defines what tourism-related expenditures are. The majority of what we use our State accommodation taxes on are the advertising and promotion of tourism, the promotion of arts and cultural events, and then we also give some to our DASH shuttle for our tourists to shuttle around the City. Also, for counties that have a high concentration in tourism, we're allowed to use funds for additional things. Our county is, obviously, we receive over \$900,000 in State A-tax money, so we can use it for providing additional services related to tourism, so we do that. We don't typically use our State A-tax money for that. We usually use Municipal Accommodations Tax or Hospitality Tax, but that law applies to all three, so I just wanted to point it out. But, we cannot use it as an additional source of revenue for services that we already provide. It has to be tied back to

tourism and how that benefits tourism, provides tourism, and increases the economic impact. A good example of that would be our Tourism Enforcement Officers and also our Police Department providing Police Officers in the Entertainment District.

I also wanted to mention Senate Bill 917. It's a State law proposing to amend all three of the tax revenue sources to allow us to use it for flooding and drainage. It specifically says those revenues have to be expended exclusively on Public Works projects designed to eliminate or mitigate adverse effects of recurrent nuisance tidal flooding, including that which is attributed to sea level rise or other recurrent flooding. The House currently has an amendment, and they are limiting the applicability from Statewide to counties that have received at least \$14 million in tax funding in the last fiscal year. Right now, it's only Charleston County and Horry County that this applies to. In addition, we're only allowed to spend 30 percent of those revenues, and they've also limited it to ten years, so unless you were to get debt, and you pledge those revenues for the debt, they're only proposing that this amendment be in effect for ten years. Right now, that's in Conference Committee, so we're not sure where that will end up.

Just as a reference, 2017, this was our State Accommodations Tax revenues. We received \$7 million. We allocated those funds based on the requirements of the State law, and the General Fund received \$378,000. We gave \$2.1 million to the CVB and then \$3.7 million, which is that 65 percent. We gave almost \$267,000 to DASH. We paid debt for the Gibbes and Aquarium Bond and gave the Gaillard Management Corporation money for operations, and then \$2.1 million went to our Accommodations Tax grants. Our Accommodations Tax grants can only be awarded to non-profit organizations and can only be used for activities related to Tourism, and they have to be spent within two years. We have an annual application process. The recipients are subject to audit by our Internal Auditor, and he does do that every year, randomly selects applicants. We are also required to appoint a seven-member advisory committee, and the Mayor is the one that appoints that Committee. Councilmember Gregorie is our Chairman of that Committee.

Then, we have local Municipal Accommodations Tax, and the definition is 'gross proceeds derived from the rental or charges for accommodations furnished to transients.' The State allowed for counties and municipalities to impose, by ordinance, a local Accommodations Tax not to exceed three percent. The total of the county and municipal Accommodations Tax is limited to three percent and combined, unless we were grandfathered in before the law was passed. We were grandfathered in, so the county has a two percent tax. We also have a two percent tax. We've passed two ordinances, one percent for defraying the costs of Capital Improvements beneficial to the Tourism Industry and then one percent for defraying the costs of operating expenditures beneficial to the Tourism Industry, which relieves the property tax burden to citizens, and those ordinances were--"

Councilmember Moody said, "Is that two percent, the county tax is two percent and ours is two percent. Does that mean that if you're in the City that you can do four percent?"

Ms. Wharton said, "No, we're limited."

Councilmember Moody said, "It's two percent, or the total is three percent?"

Ms. Wharton said, "It's combined. Right. Yes, and those ordinances were passed in 1994."

Councilmember Seekings said, "But we're at four percent because we're grandfathered?"

Ms. Wharton said, "No, the City's at two percent."

Councilmember Seekings said, "The County's at two, a total of four."

Ms. Wharton said, "Right, that's why we don't really want to mess with the ordinances too much, because we're grandfathered in, and we might hurt ourselves in the long run, so that's why. So, it is four percent County and the City combined."

Mayor Tecklenburg said, "That's in addition to the two percent that the State is drawing, right?"

Ms. Wharton said, "That's right. This is Municipal. So, you have State then you have Municipal--"

Mayor Tecklenburg said, "And the County. So, if you rent a hotel room in the City of Charleston, there is six percent added, right?"

Ms. Wharton said, "Yes, and so the State has identified six allowable uses for those funds, as identified. I can read them to you if you want me to or skip right by. Then, we have Hospitality Tax, which is a two percent tax on sales of prepared meals and beverages sold in establishments. We had one percent that was passed in 1994 and then another one percent that was passed in 2003, so that's how it became two percent. Local Hospitality Tax has the same allowable uses as Municipal Accommodations Tax, and then I just gave a little history of our Tourism revenues. So, in 2002, and I only went back to 2002 because that's when we had our new financial software, and that's really all I could go back to. Revenues, I can do further, but expenditures I can't. In 2002, we collected \$10.9 million from all three sources of revenue, and in 2017, we collected almost \$31 million. So, our percentage of growth from 2002 to 2017 is almost 181 percent. Total revenue received in those 16 years was \$301 million, almost \$302 million. It's really small and I apologize, but that gives the history of each one of the revenue sources. So, you can see for Municipal Accommodations Tax, it's about \$69 million, \$62.5 million for State Accommodations Tax, and \$169 million in Hospitality fee revenue. Collections by area, the majority of the taxes and fees are collected in the Peninsula with the next highest percentage collected in West Ashley, so that just shows the percentage collected in each area."

Councilmember Waring said, "So, what's the percentage for West Ashley?"

Ms. Wharton said, "Accommodations Tax is 11.1 percent, and the Hospitality Tax is 21 percent."

Councilmember Waring said, "Okay."

Ms. Wharton said, "Then, the history of our expenditures, so in 2002, we spent \$9.2 million from all three sources of revenue, and in 2017 we spent \$23.6 million. Our percentage of growth was 156 percent and the total amount expended, including amounts budgeted and reserved in 2018, was \$311 million. Then, I have that broken out on the next slide which is really small. I broke it out by all three revenue sources and then the types of expenditures that we had, so you have Capital Projects and Maintenance. We have General Fund Support, Debt Service, Support to other City Funds, Grants to Non-Profits, and the Statutory Allocation to the CVB and contribution to the DASH. So, you can see Capital Projects and Maintenance, we spent about \$93.6 million or 30 percent. It has it broken out by each area. So, West Ashley is only 1.61 percent versus the other. You see the total of 100 percent and then--"

Councilmember Waring said, "Excuse me."

Ms. Wharton said, "Go ahead."

Councilmember Waring said, "That's over what period of time?"

Ms. Wharton said, "That's from 2002 to 2017, and then if we had reserves or budgeted, I included that, as well."

Councilmember Waring said, "So, the total for that period of time, obviously we can't see it, is how much?"

Ms. Wharton said, "I'm sorry about that."

Councilmember Waring said, "That's okay. It's 300 and what?"

Ms. Wharton said, "\$311 million."

Councilmember Waring said, "The amount appropriated that went to West Ashley was 1 what?"

Ms. Wharton said, "It is actually \$5 million."

Councilmember Waring said, "So, out of \$311 million, a little north of \$5 million came West Ashley."

Ms. Wharton said, "That's right."

Councilmember Waring said, "Thank you."

Ms. Wharton said, "It's 1.61 percent. Almost \$146 million went to General Fund or Support, and then you had Debt Service at \$23 million, support to other City Funds at \$6.6 million, our grants to non-profits at \$21 million, and then our allocation to the CVB and our contribution to the DASH was almost \$21 million."

Councilmember Waring said, "Okay."

Councilmember Lewis said, "Can we get a copy of this?"

Ms. Wharton said, "Yes, I'll send it to you."

Councilmember Shahid said, "Ms. Wharton, when you talk about the money going to West Ashley, I think you said one percent, how are you calculating that? How is that one percent calculated?"

Ms. Wharton said, "It's Capital Projects that we have money earmarked for West Ashley projects. That's what that is."

Councilmember Shahid said, "Okay. Thank you."

Ms. Wharton said, "I have all of the details. If you want, I can get it to you. So, just to summarize the restricted funds, it's important for us to be compliant with the State laws. While these funds have helped with funding Capital Projects, the biggest benefit has been the relief it's provided to the General Fund. It helps pay for the additional services required by the City for tourism. It aids in our ability to provide core services at a reasonable millage rate for our

citizens, and it also helps with General Fund reserves at the end of the year. With those General Fund reserves, we apply those towards Capital Projects that don't meet the State law."

Councilmember Griffin said, "Can you go back to the first part on the State Accommodations Tax and this new bill that's up in the State Senate?"

Ms. Wharton said, "You want me to go all the way?"

Councilmember Griffin said, "Just reading that, and I tried to stop you but I don't think you saw me."

Ms. Wharton said, "I'm sorry."

Councilmember Griffin said, "It says that the money, let me see if I can find it, that it has to be, where did I see that?"

Ms. Wharton said, "Just tell me where you are."

Councilmember Griffin said, "At Tourism Related Lands or Areas."

Ms. Wharton said, "Yes."

Councilmember Griffin said, "So, does that mean that that money has to stay downtown?"

Ms. Wharton said, "No, not necessarily. No, it has to be--"

Councilmember Griffin said, "But we have to show that it's tourism."

Ms. Wharton said, "Right, and they haven't really defined what a tourism-related land or area is either, so there's not a clear definition."

Councilmember Griffin said, "Okay. I want us to keep a look on that because that's going to be important just because if we have to prove that it's tourism, we're going to have to prove that in order to get that money back to our area."

Councilmember Waring said, "We've got great proof providers."

Councilmember Gregorie said, "Amy, just a quick question."

Ms. Wharton said, "Yes."

Councilmember Gregorie said, "Is the amount trending upward for West Ashley from let's say 2016 to now?"

Ms. Wharton said, "Well, I can't, it's hard to, because we used the 2016 data for the Accommodations tax, and with our new software, we're able to do that for Hospitality. So, last year was the first year. We'll watch it going forward, and I'll let you know that."

Councilmember Gregorie said, "Thank you."

Councilmember Waring said, "Amy, now the Accommodations tax total over the period of time you had was slightly north of \$300 million. Out of that total, what was the percentage of the dollar amount that came West Ashley?"

Ms. Wharton said, "I didn't calculate the dollar amount. I just had the percentage."

Councilmember Waring said, "Okay. What's the percentage?"

Ms. Wharton said, "So, for Accommodations, it was 11 percent, and for Hospitality, it was 21 percent."

Councilmember Waring said, "No, that's collected. I'm talking about out of total dollars collected out of Accommodations tax money, out of that \$301 million, how much of that, percentage wise or dollar wise, was spent in West Ashley?"

Ms. Wharton said, "That was \$5 million spent."

Councilmember Waring said, "So, that's not out of Hospitality money."

Ms. Wharton said, "That's all three."

Councilmember White said, "\$93 million of the \$311 million was for Capital Projects."

Ms. Wharton said, "Was for Capital Projects, exactly, and out of the Capital Projects, we have \$5 million allocated towards West Ashley, and that's all three."

Councilmember Waring said, "I can almost call out what the projects were for the \$5 million. This just happened in the last three or four years. Bender Street Park, Wappoo Park, Northbridge, Gateway, and then some underground \$500,000 wiring that you got in last year."

Ms. Wharton said, "It's not spent yet. If it's allocated, yes."

Councilmember Waring said, "Okay, and there's some underground wiring by the new fire station by the memorial, about \$300,000 or \$400,000 for that, so it's been very recent. I'm not here to say I told you so, but what I am here to say is how powerful that source of funding has been over the years and rightfully so for the Peninsula, for Daniel Island, when we needed to get the Tennis Center built over there, obviously, for the Gaillard in part, but if we're going to really revitalize West Ashley and certainly contribute to James Island and John Island to a lesser degree, folks, the funding formula has to be different. I know it has to comply with the law because every time we bring up that the money needs to be done more fairly, then we get the great examples of how it has to subscribe with the law. I am not talking about breaking the law, but you certainly have to look for rationale, and it shouldn't be, anyway, we shouldn't be looking at crumbs. Those dollars have been spoken for, for so long, primarily for the Peninsula of Charleston. We just have to do things in a much more diverse, fair and economic way. I will say this, and then I'll be quiet. If the tax dollars cannot be spent and appropriated in a more equitable way, then I would submit that all of the citizens West Ashley, James Island, and Johns Island shouldn't pay Accommodations and Hospitality tax if they cannot see an equitable share of the return of their tax dollars coming back. That just reminds me of the Boston Tea Party. We fought a whole war over that. We have representation, but we don't get the revenue coming back. We always have to fight to make our case for that and going forward, just as when, and by the way I was Chairman of JEDA, when the opportunity came to get the Family Circle Tournament from Hilton Head, but everybody pushed in the right direction to get money from the State, County, and the City to get that done. With the West Ashley Revitalization coming up, we're just going to need the help of the remainder of the region represented around this Council to be able to do that effectively. Thank you."

Mayor Tecklenburg recognized Councilmember Moody.

Councilmember Moody said, "Yes, I just want to make a comment, as well, about what Councilmember Waring is saying. Actually, we don't have to do the Hospitality as equitable. For example, there was just a lawsuit that was settled about, I think, Airbnb, and some of these companies agreed, and we were going to get a few million dollars. Well, that could go West Ashley, and the Hospitality could go downtown. We've just got to watch what we're doing. That's the way we do it. We work together. It's not either/or, but that's the way you've got to come up with ways of making that equitable, and that's what we've got to look at."

Mayor Tecklenburg recognized Councilmember Seekings.

Councilmember Seekings said, "Just briefly, I agree with both of these. One of the things, just because they're small numbers if you're watching at home, that this money does go into our General Fund and, how much money has gone into our General Fund?"

Ms. Wharton said, "Almost \$146 million."

Councilmember Seekings said, "\$146 million, that is money that gives across the board, everybody in the City of Charleston property tax relief, so just remembering that too. We all pay property taxes, so what Ms. Wharton is talking about is the monies expended on Capital Projects that are outside of our operating budget, that didn't go into our General Fund. That's the thing that I know we all need to be talking about growing in the future. Particularly when it comes to flooding, we've got lots of General Fund money, I mean Capital Expenditure and Capital Project money needs, but just so everyone knows that everyone benefits in the General Fund in the reduction of our property taxes, and that's something to keep our eye on the ball on that, too."

Mayor Tecklenburg recognized Councilmember Shahid.

Councilmember Shahid said, "Along that same line, if we are able to be creative with this, and we can take more Capital, more General Funds, that are not restricted, and free those monies up, then that helps us transfer this money back over to West Ashley, as well. So, there's a lot of ways of doing this, and we've just got to be keeping our eye on the ball and be creative and cooperative with all of that."

Ms. Wharton said, "We do that with General Fund reserves at the end of the year, however, those are not guaranteed funds either, so that's why it very important for us to stay as fiscally responsible and stay within our appropriated budgets."

Mayor Tecklenburg said, "Thank you for helping us do that."

Mayor Tecklenburg recognized Councilmember Griffin.

Councilmember Griffin said, "I do think that West Ashley, in general, is trending in the right direction. We're going to have lots of opportunities to get some of this money back because I think the percentage of the taxes is going to go up. West Ashley is going to create more with the opportunities like at Citadel Mall, maybe a Natatorium one day. We are going to have more visitors coming to West Ashley. So, hopefully, we'll get the piece that we deserve at that point."

Councilmember Waring said, "Mr. Mayor, one last thing before I leave."

Mayor Tecklenburg said, "Yes, sir."

Councilmember Waring said, "Again, you weren't part of this and the new Councilmembers were not, but when we would propose things we would get pushback that tourists, I'm telling you this was the explanation, did not go West Ashley and, frankly, that infuriated us. So, I want to thank you, Mr. Mayor. I want to thank Ms. Wharton and your team who pulled this information together because, going forward, our vision is now clear. We all know, I don't want to point to the past because it was very successful for the Peninsula. It was very successful for Daniel Island, but for revitalization to happen, the idea that tourists don't come West Ashley, and the justification for not taking those dollars west of the Peninsula, hopefully, that will be ended with the financial reality and, remember now, that's not all of the money. We're just talking about from 2002 until 2017. That's all we're talking about. We're not talking about the entire history of the tax, and believe me, that could be found because we are a historic City."

Ms. Wharton said, "I've got it."

Councilmember Waring said, "I know you've got it."

Ms. Wharton said, "I've got it, but in order to do apples to apples."

Councilmember Waring said, "This shows the point of how we need to go forward in a more diverse way, financially. Thank you very much to everybody with their patience on this. Thank you."

Mayor Tecklenburg said, "Thank you. Yes, sir. Are there any other comments before we move on?"

Mayor Tecklenburg recognized Councilmember Wagner.

Councilmember Wagner said, "Yes, I just want to follow up. When we were told that we didn't have anything that tourists would be interested in West of the Ashley, as Councilmember Waring said, it kind of frustrated us a little bit. When I asked them very patiently like, 'So, when did you all move Charlestowne Landing, and what did you do with it, and why weren't we told?' Then, we started to see a little trickle of money shortly thereafter because they realized they hadn't moved Charlestowne Landing or any of those wonderful plantations. Thank you."

Mayor Tecklenburg said, "Right, well, case in point. We're getting ready to form a Commission to celebrate Charleston's 350th birthday and, in fact, that birth occurred West of the Ashley."

Mayor Tecklenburg said, "Case in point, we're getting ready to form a Commission to celebrate Charleston's 350th Birthday, and in fact, that birthday occurred West of the Ashley."

So now, let's move forward with our Citizens' Participation Period, which isn't very popular tonight. We only have about five people signed up, so I'll allow three minutes."

Councilmember Waring was excused from the meeting at 7:57 p.m.

The Clerk said, "Actually, Mayor, it's four."

Mayor Tecklenburg said, "Still, let's keep it to three minutes. I think that's reasonable."

The Clerk said, "Mohammed Idris, Skip Hoagland, Suzanne Hardee, I think Suzanne left, and Ian Tomlinson. Okay, so we have two."

1. Mohammed Idris stated that he represented PRIDE, People Ready to Improve and Develop the Environment. They were saying they didn't want the IAAM built on contaminated land. They were putting the Museum in an area that people could hardly go to in the evening. They were talking about money going to other places, and why couldn't they take the Museum and put it on Columbus Street or by the school, so they could get to it. The majority of poor people couldn't get to the location after dark. They would like to see the Museum placed in their neighborhood and they had plenty of places it could go. He had given Mr. Jerue around 300 names of diverse citizens that had signed a petition to the John L. Dart Library. Mr. Jerue had lost the information and they couldn't find it. It was a shame that they kept doing same thing over and over and didn't expect anything bad to happen. They had locked him up and now he saw that the Mayor was charged with misappropriation of funds.
Councilmember Griffin called Mr. Idris out of order.

Mayor Tecklenburg said, "I'll call him out of order, if appropriate."

2. Skip Hoagland stated that he was from Hilton Head, South Carolina. He stated he was there to help them. He had some important documents to enter into record, related to the Charleston CVB Tax corruption for any Councilmembers that were interested. In the box would be documents for Palm Beach CVB Forensic Audit, which resulted in a ten year prison sentence, an article on the Helen Hill corruption in the Charleston City Paper, and the Myrtle Beach CVB Chamber lawsuit. What he cared about was seeing all receipts on where every penny went and was spent and Helen Hill to agree to a forensic audit. If she had nothing to hide, she would show them everything. Numbers didn't lie, and he said Helen Hill lied.

Mayor Tecklenburg called Mr. Hoagland out of order. Mr. Hoagland said he had proof, and he had the floor. Mayor Tecklenburg told him he could go outside and say it. Mr. Hoagland said he was going to finish his speech. Mayor Tecklenburg asked a policeman to remove the gentleman. Mr. Hoagland was removed from the Chamber.

3. Charles Wilson, 1614 Grimball Road Extension, stated that his family owned 1614 Grimball Road Extension and 1648 Folly Road. He was there to speak on the facts of the Folly Road Overlay. Since the time they had purchased their property, he had been involved in the Overlay. As the Overlay began, the South Village and the neighborhood preservation area were defined by Rafeal Lane. The City of Charleston made a mistake when they had adopted the Folly Road Overlay the past December. The mistake was that the mapping had not been updated. The whole line of Rafeal Lane was adopted. In Charleston County, that line was Grimball Road Extension, which was right in front of his house. They spent six months annexing into the City and were immediately shut down in the moratorium. They thought everything was solved, but then they passed the Folly Road Overlay and it was adopted incorrectly. He had continual support from Councilmember Moody and Councilmember Seekings and they hoped for more support. He hoped they could correct the mistake and have the South Village line dictated by Grimball Road Extension, which was where it was supposed to be.
4. Joel Lucas stated he was there to speak about his restaurant, Edison James Island, at 1014 Fort Johnson Road. He wanted to voice his support to amend Chapter 54 of the Zoning Ordinance for outdoor conditional dining. It was clearly something that helped every restaurant with C-2 license in the City to have outdoor dining for more than eight months out of the year. They also have a location that was in coordination with different

businesses that aren't able to stick around and this was something that would help their family business survive.

5. Penny Wilson stated that she was the manager of the family LLC that owned the property that Mr. Wilson was referencing. She didn't think that many of them realized how difficult it was to start a small business in Charleston. It was complicated to follow all the codes and rules and then the rules changed with no notice to them. It was possible that the change was an unintended mistake, but it was an error that cost them time, effort, and money. They had been characterized as developers, and they were not. They were a family LLC. Their property had been vandalized and her son had been robbed repeatedly. For some reason, they were targeted. They had owned property on James Island since the early 1950's and she had seen all the changes on the Island. She would love it for it to be the way she knew it, but that time was gone. They were trying to build something unique and beneficial. They hoped Council would be cognizant of the difficulties of starting a small business, but they mostly hoped they could correct the mapping error.

Mayor Tecklenburg said, "We'll make sure our staff gets with you about this matter. I assure you. Josh, would you make sure you get their information? Okay, would anyone else like to be heard? Thank you all for your comments this evening.

Now, we'll go the Resolution Establishing the 350th Celebration Committee."

Councilmember White said, "So moved."

Councilmember Shahid said, "Second."

Mayor Tecklenburg said, "We have a motion and second. Are there any comments?"

Mayor Tecklenburg recognized Councilmember Shahid.

Councilmember Shahid said, "Thank you, Mr. Mayor. I just want to recognize, first, that we have three members who have been working on this Resolution, Mr. Dan Ravenel, Virginia 'Ginny' Ziff, and Ron Howell. This ad hoc committee has been meeting trying to formulate this Resolution to address this celebration. Ms. Ziff brought to our attention that this was brought to the General Assembly in the past, so hopefully, with the passage of this Resolution, with the work of these fine folks, we can get this Resolution passed to celebrate our 350th Anniversary which, as the Mayor pointed out earlier, generated in West Ashley, in my district, at Charlestowne Landing. That may bring some more tourist dollars, from these taxes that we've been talking about, into our West Ashley area, as well. So, I would urge Council to pass this Resolution."

Councilmember White was excused from the Chamber at 8:12 p.m.

Mayor Tecklenburg said, "Terrific."

Mayor Tecklenburg recognized Councilmember Griffin.

Councilmember Griffin said, "I would like to volunteer my efforts to be on one of these."

Mayor Tecklenburg said, "You're appointed."

There was laughter in the Chamber.

Councilmember Griffin said, "Thank you."

Mayor Tecklenburg asked, "Is there any further discussion or questions? I can say we all in Charleston love a good birthday party, and for 350 years, we ought to have an excellent one. Thank you to our citizens over here for being a part of this. I know you all will plan an excellent event for us. It's really something to celebrate, 350 years of Charleston, SC."

On a motion of Councilmember White, seconded by Councilmember Shahid, City Council voted unanimously to adopt the Resolution establishing the Charleston 350th Celebration Committee.

-- INSERT RESOLUTION --

Mayor Tecklenburg said, "Next, Councilmember Griffin had requested a status update of the FEMA Buyout. Now, we pretty much had that at our Public Service Commission."

Councilmember White was excused from the Chamber at 8:12 p.m.

Councilmember Griffin said, "Mark (Wilbert) kind of filled us in as to where we are and what the timeline's going to be."

Mayor Tecklenburg said, "Alright. We'll give a little repeat of what we had earlier today. Mr. Mark Wilbert, our Director of Resiliency."

Mark Wilbert said, "I'll give a very condensed version. Progress is being made. We started out with 48 homes in this particular buyout. Three have since dropped out, which brings us down to 45. We have one person that we're having difficulty contacting. We'll continue to make efforts on that. The good news is 100 percent of the Bridgepointe residents have returned all of their initial forms. The other good news is the appraiser has started. We received the first appraisal back, and that's going through the review process in the City. Then, we'll forward that on to FEMA. Once we are comfortable with that, our appraiser will continue, we're hoping next week, and we'll really start getting on track and sped up.

We've got some issues with duplication of benefits, and other questions. We've gone to the State, and we're getting answers to those, and we'll pass that information to the residents just as soon as we feel comfortable that we've got accurate information. That's the update on the buyout."

Mayor Tecklenburg asked, "Are there any questions for Mr. Wilbert? Thank you, Mark.

Next, we have three boards and commission appointments."

Councilmember Moody said, "Move for approval."

Councilmember Mitchell said, "Second."

Mayor Tecklenburg said, "We have a motion to approve and a second. Is there any discussion?"

On a motion of Councilmember Moody, seconded by Councilmember Mitchell, City Council voted to approve the appointments for the Accommodations Tax Advisory Committee, the Mayor's Commission on Children, Youth, and Families, and the Board of Architectural Review – Small.

-- INSERT APPOINTMENT MEMOS --

Councilmember White returned to the Chamber at 8:15 p.m.

Mayor Tecklenburg said, "Next, we have an appointment for Corporation Counsel, being Ms. Susan Herdina. She's very motivated, and she's going to do an incredible job as the City of Charleston's next Corporation Counsel. I do have to point out that she's a fellow alumni of Georgetown University. So, let's go ahead and approve this, if we could. Are there any comments or questions?"

Councilmember Shahid said, "So moved."

Councilmember Mitchell said, "Second."

Mayor Tecklenburg said, "We have a motion and a second. I'd like to allow, well, let's vote on it first."

On a motion of Councilmember Shahid, seconded by Councilmember Mitchell, City Council voted unanimously to appoint Susan Herdina as the City of Charleston's Corporation Counsel.

There was applause in the Chamber.

Mayor Tecklenburg asked, "Susan, would you like to introduce your family who are here?"

Ms. Herdina said, "Really briefly, I'd like to introduce my husband, Ronnie Bonds, and my daughter, Meghan Bonds. I know some of you know them, but for those of you who don't, I'm sure you'll see them around here often."

There was applause in the Chamber.

Ms. Herdina continued, "I don't know if this is the night or not to do this, but I would like to promise you one thing, and that is we will never have another attorney like Frances Cantwell, who is the Corporation Counsel."

There was a standing ovation in the Chamber.

Ms. Herdina continued, "Thank you for the honor and the privilege, and I promise you that my great legal staff and all of us will work as hard as we can to do the best we can for you, Mayor, and the City. Thank you very much. Thank you."

Mayor Tecklenburg said, "Thank you, Susan, and yes, when we had, at Council, an executive session, just at our last meeting, I think it was for me to inform Council of this bittersweet situation, bitter somewhat for the City of Charleston to have lost Frances, who's been so devoted to this City. She is one of the finest, most professional, most respected attorneys, really an expert in municipal law, but it's a seemingly bitter loss for us, but so sweet for her, so well deserved. Her years of expertise and professionalism to the City. Now she can go and rub her toes in the sand of Folly Beach a little more and enjoy the beginnings of, what we know will be, a wonderful retirement and life to come. God bless you, Frances. I can't see you, but we love you."

There was applause in the Chamber.

Councilmember Shahid said, "Mr. Mayor, can I make just one comment about Frances Cantwell? In the days when we were doing this litigation with James Island and the Town, the annexations and the incorporation of James Island, Frances appeared in front of the State Supreme Court. I think there was a Chief Justice that came up, I was part of the crowd, and said that the best oral argument that the Chief Justice had ever heard came from Frances Cantwell during those litigations. That's just a testament to Frances and her legal ability and her representation to the City and the State. I think that just needed to be noted, that the Chief Justice saw that and recognized Frances' talent, at that time. So, thank you, Frances, for all that you have done."

Mayor Tecklenburg said, "Alright, next, let's go to our Council Committee reports. The first is the Committee on Public Works."

Councilmember Gregorie said, "Move for approval."

Councilmember Mitchell said, "Second."

Mayor Tecklenburg said, "We have a motion and a second to accept. Councilmember Waring has been excused, but I think mostly it was just updates on a number of projects and then the acceptance and dedication of regular rights-of-way and easements. Is there any discussion?"

On a motion of Councilmember Gregorie, seconded by Councilmember Mitchell, City Council voted unanimously to adopt the report of the Committee on Public Works and Utilities.

-- INSERT PUBLIC WORKS AND UTILITIES REPORT --

a. Acceptance and Dedication of Rights-of-Way and Easements

- Amend Exclusive Stormwater Drainage Easement-Hatchet Bay Drive Extension

b. Miscellaneous or Other New Business (INFORMATION ONLY)

- (i) Update on Church Creek Drainage Basin
- (ii) FEMA Buyout Status
- (iii) Discussion of moratorium on Johns Island
- (iv) King and Huger Street Drainage
- (v) Orleans Woods Drainage

Mayor Tecklenburg said, "Next, our Committee on Ways and Means."

Councilmember Griffin said, "Move for approval."

Councilmember Gregorie said, "Second."

Mayor Tecklenburg said, "We have a motion to approve. Is there any discussion?"

On a motion of Councilmember Griffin, seconded by Councilmember Gregorie, City Council voted unanimously to adopt the report of the Committee on Ways and Means.

(Bids and Purchases

(Budget Finance and Revenue Collections: Approval of Year 2017 Amendment to General Fund Expenditure Budget [Ordinance]

(Budget Finance and Revenue Collections: Approval of Year 2017 Amendment to General Fund Revenue Budget [Ordinance]

- (Budget Finance and Revenue Collections: Approval of an increase in insurance coverage for additional Tort coverage due to a change in liquor liability mandated by the State. Our current policy includes a per occurrence limit of \$600,000. The SC Department of Revenue is now requiring a per occurrence limit of \$1,000,000 if a location serves alcohol after 5:00 p.m. The additional cost of this increase in coverage will be \$217,115.00. The additional cost will be included in a future budget amendment.
- (Office of Cultural Affairs: Approval to apply for \$10,000 from the Coastal Community Foundation to support programs of the 2018 Free Verse Festival. Funds will be used for artistic fees and production costs. No City match is required.
- (Office of Cultural Affairs: Approval to apply for \$3,000 from SC Humanities to support programs of the 2018 Free Verse Festival. A 1:1 City match is required. Matching funds will come from paid admissions and donations.
- (Parks-Capital Projects: Acceptance of the 2018 Parks and Recreation Development (PARD) grant funding for the construction of a new playground at Mall Playground at Hampstead Square. The scope of work includes the removal of existing play equipment and site preparation, purchase and installation of new playground equipment, purchase and installation of safety surfacing, and related site improvements. This grant provides 80% of the cost of a project, with the remaining 20% to be provided as matching funds. The grant funding available is \$26,187.15 (per capita distribution administered by Charleston County Park & Recreation Commission), requiring a \$6,546.79 match. Total project funding is \$32,733.94. The approval of the grant award will institute a \$32,733.94 project budget. The funding source for the project is: 2018 PARD Grant Funding (\$26,187.15) and 2018 Construction-Playground Equipment Maintenance (\$6,546.79). Grant acceptance is required by the end of May.
- (Parks-Capital Projects: Approval of Ashley River Walks Phase I Professional Services Contract with Soil Consultants, Inc. in the amount of \$69,715 for geotechnical engineering services for all phases of the Ashley River Walk project. The Professional Services Contract will obligate \$69,715 of the \$300,000 project budget. The funding source for this project is 2018 Hospitality Funds (\$300,000).
- (Parks-Capital Projects: Approval of the City Market Shed Repointing Construction Contract with Midwest Maintenance, Inc. in the amount of \$178,080 for the repointing of masonry mortar joints on Sheds A & B and an area of stucco damage on Market Hall at the City Market. With the approval of the project budget, Staff is authorized to award and/or amend contracts less than \$40,000, to the extent contingency funds exist in the Council approved budget. The Construction Contract will obligate \$178,080 of the \$253,500 project budget. The funding source for this work is the City Market, General Maintenance line item.
- (Housing and Community Development: Mayor and City Council approval is requested for the submission of the Application for Federal Assistance (SF 424 Forms) and the corresponding documents to the Department of Housing and Urban Development (HUD) for the 2018-2019 program years. Attached are the 424 Forms, HUD certification forms and the budget. This request has been coordinated with the Community Development Advisory Committee and the Community Development (CD) Committee of City Council. The CD Committee gave final approval to the HOPWA, HOME and CDBG budgets Thursday, April 26, 2018. However, the final award allocations were released by the Department of HUD, Thursday, May 3, 2018. The proposed changes to the budget are explained in the attached memorandum. Approval is also requested for the execution of contracts for each organization based on the approved budgets/awards. The contracts will be reviewed and vetted by City of Charleston Corporation Counsel prior to the dissemination of the contracts to the nonprofit agencies. Contract templates are also attached for your information.

- (Legal Department: Approval of Change Order #1 to the Construction Contract with NBM Construction Company, Inc. in the amount of \$22,102.72 for the emergency shoring and protection of the Read Brothers building. Approval of Change Order #1 to the Construction Contract with NBM Construction Co., Inc. will increase the Construction Contract amount from \$41,736 to \$63,838.72. This additional cost will be covered from contingencies in the non-departmental division. Corporation Counsel will work to place a lien on the property in an attempt to recover any costs associated with this work.
- (Request authorization to execute the License Agreement whereby allowing We Are Family to provide support services for persons experiencing homelessness or those at risk of homelessness at 529 Meeting Street (TMS: 459-05-01-011) The property is owned by KQC Investors, LLC.
- (Request authorization to execute the Bargain Sale Agreement whereby the City will purchase 1.31 acres for the purpose of constructing a fire station to serve areas of the City located within the Cainhoy peninsula. The seller will construct the roads and provide Temporary Access Easements until such roads are dedicated to the City (Portion of 2620 Clements Ferry Road, Charleston, Berkeley County; TMS: Portion of 2620 Clements Ferry Road, Charleston, Berkeley County) The property is owned by Clements Ferry Properties, LLC **(DEFERRED)**
- (Request authorization to execute the Amendment to Purchase and Sale Agreement for 101 Broad Street whereby extending the closing date to July 20, 2018. The property is owned by the City of Charleston. (101 Broad Street; TMS: 457-12-04-016) [Ordinance]
- (-Request authorization to execute the License Agreement between the South Carolina State Ports Authority, the City and the Citadel authorizing the use of space at the Port's North Charleston Terminal to unload and store oysters, pending their replanting.
- Request authorization to execute the Cost Sharing Agreement between the City and the Citadel Foundation, relating to the Ashley River Oyster Bed Enhancement Project, whereby the City agrees to serve as the project manager for the City project and The Citadel's project, if The Citadel opts to do its project in tandem with the City.
- Request authorization to execute the Agreement between the South Carolina Department of Natural Resources, the City and the Citadel retaining SCDNR to monitor the oyster bank construction for compliance with environmental regulations.
- The property is owned by the South Carolina State Ports Authority.
- (Request approval for the Mayor to execute the attached First Amendment to the Memorandum of Agreement whereby the City of Charleston and the Charleston Parks Conservancy agree to work jointly on improving, managing, maintaining, and programming City Parks for the benefit of the citizens, to clarify the required insurance coverages and to reduce the liability limits of the umbrella policy required to be maintained by the Charleston Parks Conservancy from \$10,000,000 to \$5,000,000.
- (Request authorization for the Mayor to execute the Purchase and Sale Agreement for the City to acquire the Archer School site from Charleston County School District for future development to include affordable housing
- (Consider the following annexations:
- 1758 Jervey Avenue (TMS# 351-10-00-068) 0.09 acre, West Ashley (District 9). The property is owned by Sarah Boiter Bunting.
 - 534 Savannah Highway (TMS# 421-03-00-167) 0.24 acre, West Ashley (District 11). The property is owned by Big Pine Acres LLC.
 - Property known as three properties on Habakkuk Lane (TMS# 267-00-00-015, 267-00-00-016 and 017) 1.50 acres, Cainhoy (District 1). The property is owned by MSR Clements Ferry Land LLC.
- (Executive Sessions Regarding Contractual Matters:
- (i) Forest Acres Drainage Phase 2A **(No action taken)**

(ii) Calhoun West Drainage Project **(No action taken)**

(iii) Update on CSOL property sale **(No action taken)**

Action may or may not be taken on any of the above matters.

(Authorization for the Mayor to execute a License Agreement with Charleston Water Taxi, LLC allowing the use of the dock on Daniel Island at Town Center for picking up and dropping off passengers. The duration of the License will be until the earlier of the opening of the James Edwards Bridge or the transfer of the dock to the Daniel Island Community Association in accordance with the Fourth Amendment to the Development Agreement. [After the Fact Approval]

First reading was given to the following bills:

An ordinance to make additional appropriations to meet the liabilities of the City of Charleston for the fiscal year ending December 31, 2017.

An ordinance to recognize the usage of additional funds to meet additional appropriations authorized by Ordinance 2018-_____ for the fiscal year ending December 31, 2017

An ordinance authorizing the Mayor to execute on behalf of the City an Amendment to the Purchase and Sale Agreement pertaining City-owned property located at 101 Broad Street, TMS. No. 457-12-04-016, between the City and EEMO, LLC, a South Carolina Limited Liability Company, so as to extend the date by which closing must occur.

An ordinance to provide for the annexation of property known as 1758 Jervey Avenue (0.09 acre) (TMS# 352-10-00-068), West Ashley, Charleston County, to the City of Charleston, shown within the area annexed upon a map attached hereto and make it part of District 9. The property is owned by Sarah Boiter Bunting.

An ordinance to provide for the annexation of property known as 534 Savannah Highway (0.24 acre) (TMS# 421-03-00-167), West Ashley, Charleston County, to the City of Charleston, shown within the area annexed upon a map attached hereto and make it part of District 11. The property is owned by Big Pine Acres LLC.

An ordinance to provide for the annexation of property known as three properties on Habakkuk Lane (1.50 acres) (TMS# 267-00-00-015, 267-00-00-016 and 017), Cainhoy, Berkeley County, to the City of Charleston, shown within the area annexed upon a map attached hereto and make it part of District 1. The property is owned by MSR Clements Ferry Land LLC.

Mayor Tecklenburg said, "That included the amended agenda, that included the water taxi agreement.

Next, we have our bills up for second reading."

Councilmember Mitchell said, "K-1 through K-5."

Mayor Tecklenburg said, "We have a motion for K-1 through K-5."

The Clerk asked, "Is there a second?"

Councilmember Griffin said, "Second."

Mayor Tecklenburg said, "We can take them altogether. I'll put my gavel away for a little while. I think I've used it more tonight than any other night since I've been Mayor. So, we're taking K-1 through K-5 together. Is there any discussion or questions?"

On a motion of Councilmember Mitchell, five (5) bills (Items K-1 through K-5) received second reading. They passed second reading on motion by Councilmember Griffin and third reading on motion of Councilmember Mitchell. On further motion of Councilmember Lewis, the rules were suspended, and the bills were immediately ratified as:

- 2018-062** AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY AN AMENDMENT TO THE LEASE AGREEMENT WITH CHARLESTON PARKS CONSERVANCY PERTAINING TO LAND BEING A PORTION OF HAMPTON PARK, LOCATED IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA, WITH IMPROVEMENTS THEREON KNOWN AS THE CAFÉ, HORSE BARN, PADDOCK, SUPERINTENDANT'S HOUSE, AND PARKING AREA, TO REDUCE THE LIABILITY LIMITS OF THE UMBRELLA POLICY REQUIRED TO BE MAINTAINED BY THE CHARLESTON PARKS CONSERVANCY FROM \$10,000,000 TO \$5,000,000.
- 2018-063** AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY AN AGREEMENT OF PURCHASE AND SALE, IN WHICH THE CITY AGREES TO SELL TO JAKE S. THOMAS THE CITY'S PROPERTY LOCATED AT 1904 DOSCHER AVENUE (CHARLESTON COUNTY TMS NO. 464-01-00-189) FOR \$182,000, SUBJECT TO THE HOME INVESTMENT PARTNERSHIP PROGRAM RESALE RESTRICTIVE COVENANTS, AND FURTHER AUTHORIZING THE CITY TO ACCEPT A PROMISSORY NOTE, SECURED BY A SECOND PRIORITY MORTGAGE ON THE PROPERTY, FOR \$40,000.00 TOWARDS THE PURCHASE PRICE.
- 2018-064** AN ORDINANCE TO PROVIDE FOR THE ANNEXATION OF PROPERTY KNOWN AS 1791 WILSHIRE DRIVE (0.35 ACRE) (TMS# 352-09-00-035), WEST ASHLEY, CHARLESTON COUNTY, TO THE CITY OF CHARLESTON, SHOWN WITHIN THE AREA ANNEXED UPON A MAP ATTACHED HERETO AND MAKE IT PART OF DISTRICT 9. THE PROPERTY IS OWNED BY DAVID KAUFMAN AND DEE ANN KAUFMAN.
- 2018-065** AN ORDINANCE TO PROVIDE FOR THE ANNEXATION OF PROPERTY KNOWN AS 2947 FOXHALL ROAD (0.31 ACRE) (TMS# 358-10-00-065), WEST ASHLEY, CHARLESTON COUNTY, TO THE CITY OF CHARLESTON, SHOWN WITHIN THE AREA ANNEXED UPON A MAP ATTACHED HERETO AND MAKE IT PART OF DISTRICT 10. THE PROPERTY IS OWNED BY ALEX L. WETHERELL AND JESSICA WETHERELL.
- 2018-066** AN ORDINANCE TO PROVIDE FOR THE ANNEXATION OF PROPERTY KNOWN AS PROPERTY ON CENTRAL PARK ROAD (0.213 ACRE) (TMS# 340-00-00-046), JAMES ISLAND, CHARLESTON COUNTY, TO THE CITY OF CHARLESTON, SHOWN WITHIN THE AREA ANNEXED UPON A MAP ATTACHED HERETO AND MAKE IT PART OF DISTRICT 6. THE PROPERTY IS OWNED BY MARION GREEN.

Mayor Tecklenburg said, "Now, bills up for first reading."

Councilmember Griffin said, "Move for approval."

Mayor Tecklenburg continued, "We have that ordinance that was mentioned during public participation about outdoor dining."

Councilmember Griffin said, "Move for approval."

Councilmember Moody said, "Second."

Mayor Tecklenburg said, "We have a motion to approve. Is there any discussion?"

Mayor Tecklenburg recognized Councilwoman Jackson.

Councilwoman Jackson said, "Yes, thank you. I would like to just support this change. I do want to give a shout-out to the Planning staff and also Zoning. The Zoning is Commercial Transitional and, as the restaurant owner, Joel Lucas, said, this Edison's establishment has been very well received in the entire community of James Island, especially in the neighborhoods. This restaurant sits in the shadow of the James Island Charter High School. So, it meets the very reason why we have a Commercial Transition property. In the past, evidently, this establishment was a little less safe for students and other residents of the community. This establishment is the right scale, right price, right location, for people that come up and down Fort Johnson Road. That is a thru-way to all the soccer fields, the two avenues of Folly Road on one, and Harbor View on the other. They had 396 signatures supporting the reopening of their patio, which was already built. It was there when they took over the property to use for their restaurant.

My only question, and I will be happy to vote on it, as to the change to the ordinance in front of us, not to belabor any more discussion tonight, but I am going to take this to the Planning Commission, when we vote 'yes' tonight, and ask if we can have the hours extended to 10:00 at night. That seems to be in sync with other establishments in the suburbs where James Island is comparable, and I do think that would give them a little more leeway, especially in the summer time, when it doesn't even get dark until 9:00. So, I hope you will vote 'yes,' and I will take that to the Planning Commission. Then, it would come back to you for second reading next month. Thank you."

Mayor Tecklenburg asked, "Is there any further discussion or questions?"

On a motion of Councilmember Griffin, seconded by Councilmember Moody, City Council voted unanimously to give first reading to the following ordinance:

An ordinance to amend Chapter 54 of the Code of the City of Charleston (Zoning Ordinance) by changing the conditions in Section 54-207 to allow outdoor dining as a conditional use in the Commercial Transitional (CT) Zone District.

Mayor Tecklenburg said, "Next is an ordinance to amend Chapter 54 of the Zoning Code, changing a provision of the Folly Road Overlay District Zone. Do we have a motion?"

Councilmember Gregorie "Yes, Mr. Mayor."

Councilmember Moody said, "Second."

Councilwoman Jackson said, "No, wait."

Councilmember Gregorie said, "I move to approve L-2."

Mayor Tecklenburg asked, "Do we have a second from Councilmember Moody?"

Mayor Tecklenburg recognized Councilmember Gregorie.

Councilmember Gregorie said, "In addition, Mr. Mayor, if we can, I'd like to add an amendment that we make sure that the map between the County and the City are consistent. I'd like to make sure that staff make the necessary changes for the consistency, to make it consistent with the text. Generally, once the text is made, we go and make the changes to the map accordingly. Unfortunately, that didn't happen in this case. So, I'd like for us to make that correction."

Mayor Tecklenburg said, "And the map correction again refers to just where the Overlay Zone --."

Councilmember Gregorie said, "The boundaries."

Mayor Tecklenburg said, "Where the boundaries of the Overlay District are?"

Councilmember Seekings said, "What the Wilsons were talking about."

Councilmember Gregorie said, "What the Wilsons were talking about."

Councilmember Seekings said, "The Wilsons' property."

Mayor Tecklenburg said, "I see."

Councilmember Seekings said, "A couple of properties."

Councilmember Gregorie said, "Right."

Councilmember Moody said, "The Overlay District is like this. You've got a line on, what is it, Rafeal?"

Councilmember Gregorie said, "Rafeal."

Councilmember Moody said, "Rafeal, that the City recognizes towards Charleston being in the South Village and to the south towards Folly, would be in Neighborhood Preservation. Grimball Road, which is not towards Folly Beach, but Rafeal, that is the demarcation line for the County. The Neighborhood Preservation is towards Folly Beach, and the South Village is towards Charleston. There is about half a mile of space between those two. So, we're not changing the Overlay. The County's is here. The City's is here. We want the City down where the County is."

Mayor Tecklenburg said, "Right."

Mayor Tecklenburg recognized Councilwoman Jackson.

Councilwoman Jackson said, "Yes, thank you, Mr. Mayor. First of all, I disagree approving this ordinance, as it's written, that changes the maximum size of the buildings that are allowed in Neighborhood Preservation. We found out, in the process of investigating that request, that we are not out of alignment with either the County or the Town of James Island for that building size restriction. Our ordinance describes the limitation on the building size for

Neighborhood Preservation District. I'm sorry that this is foreign territory for most of my Councilmember colleagues, in terms of where it's located. What this ordinance Overlay accomplishes is it basically takes a long stretch of Folly Road that starts at Maybank Highway, essentially, and then goes all the way down to the Folly River that divides us from the Town of Folly Beach. In that process of that long stretch, it takes the Commercial districts, that you know when Ms. Wilson was talking about, starting out as Residential and farmland and then has developed over the years as infill Commercial. So, it takes the Folly Road stretch of a Commercial road and divides it into districts. Then, those districts describe the level of density and intensity that the communities have worked out, first with the County and the Town. The City was part of that discussion in the 2014 timeline, and then the City decided, in its wisdom, not to establish the Folly Road Overlay. That's the history of this document. Basically, Neighborhood Preservation District comes right after what they call the South Village, which is supposed to have more Commercial use and more density in that process. Then, the Neighborhood Preservation is supposed to be just like it is, Residential, with some corner stores that would serve neighborhoods. Then, it goes down to the Conservation District that's supposed to be almost all low-tech Residential or farmland.

So, my understanding, and I have fact checked this, first of all, all three Neighborhood Preservation Districts between the County, the Town, who were first, and then the City, who came in alignment this past December, restrict the size of the buildings to 5,000 total square feet. Unfortunately, our City staff got incorrect information when they first asked the County about that definition, but now we have clarified that all three jurisdictions restrict Neighborhood Preservation to 5,000 square feet. So, this ordinance is inappropriate for us to make any changes to. If we make this change tonight, we would be allowing a building to be 12,500 square feet because we're defining it as 5,000 on a footprint times two and a half stories. So, that's just not the sentiment or purpose of that part of the Folly Road Overlay.

What I determined when I was researching this, with the help of the County and the Town and the City staff, the disconnect comes with the boundary for where the Neighborhood Preservation District begins. The Wilsons and Councilmember Gregorie are correct. The difference between the three is with where the County starts their district, at the south access of Grimball Road Extension, but the Town and the City are the same. We start ours at Rafeal Lane, which is that much farther north. So, Mr. Joel Evans, the Planning Director of the County, told me directly, this past week, that the County started out with Rafeal Lane, and then, at the request of a couple of their Councilmembers, who wanted to have more Commercial opportunity going down to Grimball, made the motion to change away from what the Town had already approved. So, it's the County that's out of sync with the City and the Town from their original master planning of where we should start the Neighborhood Preservation District. I think changing anything about the 5,000 square foot size is totally wrong, and I also think that changing this important boundary to the residents of James Island on the fly tonight is also wrong of us to do, as responsible civic leaders. So, I need to vote against this. I need to ask you to defer this as a substitute motion. This is my appeal. I know it's Councilmember Gregorie's district that we're talking about, specifically, right this minute, but my District 12 starts on the other side of Grimball Road and goes on down the Folly River. There are many people in District 12, and frankly, we should just be talking about James Island. That's the whole reason we tried to come into a relationship on this important Overlay for the only Commercial road that's on James Island that is going to have any change in density or development or use in the future. So, I'm sorry that people are talking about this like we're correcting something. We are not correcting something if we take this vote. We are changing something that was beyond the intention of the master planners that went into work on behalf of the City, the Town, and the County in 2013 and came up with an ordinance in 2014. The City decided not to step

in, at that point. We have stepped in in 2017, and we need to stay where we are, without some notice to the public and some serious deliberation about why we would make that change.”

Councilmember Gregorie said, “Mr. Mayor. It is my district –”

Mayor Tecklenburg said, “Yes, it is.”

Mayor Tecklenburg recognized Councilmember Gregorie.

Councilwoman Jackson said, “It’s your district for these particular properties, not the Island.”

Councilmember Gregorie said, “No, I’ve never claimed that the Island is mine. I think that’s someone else’s claim. Mr. Mayor, I’ve not gotten any pushback from any of the residents in District 6, with respect to the administration’s amendment, with regard to the 5,000 square feet, or any pushback with respect to making sure the lines of the County and the City are the same. The only person that I’m getting any pushback on this is from my fellow colleague, Councilwoman Jackson. So, just based upon my knowledge of the residents in my district, if this was problematic to them, I would have heard from them. I haven’t. Yes, I’ve received e-mails. We all have, but those e-mails are not from District 6 people. They are from parts of the Island. So, just based upon my service to the Island since 2011, generally, if there’s pushback, I would know by now, and I’ve not received any. I wish that we would just honor the motion on the floor. It’s been first and seconded and vote accordingly.”

Mayor Tecklenburg asked, “Did you make a motion to defer?”

Councilwoman Jackson said, “Yes, I would like to make a motion to defer.”

Mayor Tecklenburg asked, “Do we have a second? On the motion to defer, is there a second? Hearing none, we’ll see if there is any other discussion. I have a question I would like to ask on this matter, Mr. Lindsey. We’ve got the Folly Road Overlay District, and then you’ve got the sub-districts within the Folly Road Overlay. So, when it comes to the 5,000 feet, is it different in one district from another?”

Mr. Lindsey said, “It is, Mayor. The neighborhood preservation area is the only one that has a restriction on the square footage of the building. The other districts have no restrictions on the square footage of the building.”

Mayor Tecklenburg asked, “Do you have the map that shows where all of this is?”

Mr. Lindsey said, “I have a *not* very good map. So, Mayor, just to show you this. The property in question is right here. This is the boundary. Mayor, if you would like, we can distribute these. They’re not the clearest maps in the world.”

Mayor Tecklenburg asked, “Would you all like to see the map? It’s of interest to me. I don’t know if it is to Council or not. Can you explain what’s going on here?”

Mr. Lindsey said, “I can, Mayor. This is a map that was provided to us by County staff. Should we wait until this is passed out to everyone?”

Mayor Tecklenburg said, “Sure.”

The Clerk asked, “Do you have one for the Clerk’s office?”

Mr. Lindsey said, "We do."

Councilmember Gregorie said, "Where are we?"

Mayor Tecklenburg said, "You were going to explain the map to us."

Mr. Lindsey said, "Yes, sir. So, this was provided to us by County staff. It's not our map, and of course, this shows Folly Road and, in these red boxes, you can see these different areas. The one which is sort of this large, red box, which is center on the sheet right here, shows what's called the South Village area. Further to the South, you'll see the neighborhood preservation area in that box towards the bottom. The neighborhood preservation area is the one that has the restriction on the square footage. So, the South Village area has no restriction on the square footage. This map is the County's map. This is what the County has adopted. They made this change on March 10, 2015. However, they did not change the text of their ordinance. So, the error was on the County's part. I'm not blaming anybody. I'm just stating a fact, that it's not ours. Ours is consistent with their original boundary. So, our map is not this map. Our map has the neighborhood preservation area coming all the way up to Rafeal Lane."

Councilwoman Jackson said, "As does the Town."

Mr. Lindsey said, "As does the Town's. So, in our ordinance and our map, the subject property, which is in discussion, is included in the neighborhood preservation area, meaning that it is subject to this 5,000 square foot limit."

Councilmember Seekings said, "When you define what the subject property is, are you talking about the Wilsons' property?"

Mr. Lindsey said, "No, Councilmember."

Councilmember Seekings said, "All the properties."

Councilmember Gregorie said, "Right."

Councilmember Seekings said, "I got it."

Mayor Tecklenburg said, "So, our line would be along Rafeal Lane."

Mr. Lindsey said, "That's correct, Mayor."

Mayor Tecklenburg continued, "And everything south of Rafeal Lane or below Rafeal Lane on this map in the City is in this neighborhood preservation area, but in the County it's in the South Village area?"

Mr. Lindsey said, "That's correct."

Mayor Tecklenburg said, "When we passed the Folly Road Overlay Zone, I'm just trying to understand it, we basically were trying to adhere to what the County had done."

Mr. Lindsey said, "Mayor, we adopted the County's original text for the Overlay, and the Town's text for the Overlay, which describes the boundaries that we adopted. That text does not describe this map. The County made the map change, but they didn't correspondingly make the text change to describe it. It was a clerical error."

Mayor Tecklenburg asked, "Have they now changed their text?"

Mr. Lindsey said, "Not to my knowledge. Christopher (Morgan) says 'No,' as well."

Mayor Tecklenburg recognized Councilwoman Jackson.

Councilwoman Jackson said, "I think we have two questions here. The 5,000 square feet should not be in front of us. All three jurisdictions are together, at this moment in time, with limiting in the neighborhood preservation district any buildings that are built to be less than 5,000 square feet. The legitimate question should be, should we change our boundary to go along with what the County is, which would be different from the Town. I agree that is a question that should come before this Council if it's important for the Council to consider that change, but we should not be making both of these decisions tonight. We should definitely withdraw the 5,000 square feet ordinance amendment because we would then be out of sync with the other two jurisdictions. If we want to continue to discuss to change the boundary, then that needs to be a clean text amendment to a document that we get in front of us, in good order, next month when the public can be announced, and we can have a chance to talk about this without making it sound like a rounding error. This is not something that we should be doing, in good conscience, as the last item of our agenda tonight, trying to fit it in into something that we've never even thought about before. That's my appeal. I am willing to have that discussion. I would not dispute that agenda item being in front of us next month."

Mayor Tecklenburg recognized Councilmember Gregorie followed by Councilmember Seekings.

Councilmember Gregorie said, "I want to make sure that I'm hearing Jacob correctly. Are you saying the County's text did not include all the way to Grimball? That's my question. I'm not talking about the map. We're talking about the text."

Mr. Lindsey said, "Yes, sir."

Councilmember Gregorie said, "In 2018, I can't remember when, there is text where the County explains that the boundary is at Grimball. What didn't follow is the map change for the County, but that's now how you explained it a few minutes ago."

Mr. Lindsey said, "Councilmember, if you turn your map over and look at the text side of this page, we have a printed description of the County's actions. Just to read this, we had to put it in writing to make sure it was clear."

Councilmember Gregorie asked, "Don't you have it in an ordinance? Where is their language?"

Mr. Lindsey said, "It's in the County's ordinance, of course."

Councilmember Gregorie continued, "So, I'd like to see that law, not this."

Mr. Lindsey said, "Understood, but if I could just answer your question. The second bullet point talks about the new boundaries for South Village and the neighborhood preservation area which were adopted by the County, March 10, 2015. They changed the text boundaries for the South Village area in their ordinance, so they moved the line in the part that describes the South Village, but they did not move the line for the neighborhood preservation area in their ordinance. So, the ordinance that they adopted was in conflict with itself. They didn't update it fully, so there was an error, just a clerical error. Those things happen. Their March 10, 2015 change was not consistent, and yes, they changed their map at the time, but the zoning text, that described the boundaries of the neighborhood preservation area, was not aligned with the

map. We did not adopt that. We adopted their original boundaries, which showed the neighborhood preservation area as being at Rafeal.”

Councilmember Gregorie said, “As opposed to Grimball.”

Mr. Lindsey said, “Correct.”

Councilmember Gregorie said, “What we wanted to do was to make sure they are consistent. That’s all, that the County line and the City line are consistent.”

Councilwoman Jackson said, “And the Town. I mean, that was our goal.”

Councilmember Gregorie said, “We don’t have any control over the Town.”

Mayor Tecklenburg said, “We don’t have control over either one of those two.”

Councilmember Gregorie said, “Correct.”

Mayor Tecklenburg said, “I must say, I’m just beginning to understand this for the first time this evening. I had asked about this matter, about the 5,000 feet building footprint versus building size, but this wrinkle of which district this is in, is news to me this evening. I, just from what I’ve learned tonight, would have to respectfully agree with Councilwoman Jackson, that the real question ought to be where is the district line, rather than tweaking the 5,000 feet. If we want to facilitate the 5,000 plus foot building on those particular properties above Grimball Road, in my opinion, the wise thing to do would be to change the district line. Does that make sense?”

Councilmember Gregorie said, “It does, Mr. Mayor. Just so we’re clear, the 5,000 square feet came from the administration. That didn’t come from us. That came from staff. I didn’t recommend it. Did you recommend it?”

Mayor Tecklenburg said, “I think it came at the request of the property owners, but it did come from staff. I’ll admit to you, I’m just understanding this nuance of the districts right here tonight.”

Councilmember Gregorie said, “I just wanted to make clear that that recommendation came from the administration, not this body, on the 5,000 square feet.”

Mayor Tecklenburg said, “Understood.”

Mayor Tecklenburg recognized Councilmember Wagner.

Councilmember Wagner said, “According to what Mr. Lindsey just gave us, the City, County, Town of James Island, are all in agreement, at this moment. So, in reality, this does change the game from 5,000 square feet, if they put it in gross floor area, to a 5,000 square foot footprint. Floor area is here. Gross footprint is all of the stories, plus the exterior portion where the walls are, which basically, as Councilwoman Jackson said, would definitely increase the footprint, the gross floor area of the building. It’s clear by these three, what Mr. Lindsey just gave us, that it’s less than 5,000 square feet in gross floor area in all of them.”

Mayor Tecklenburg said, “Under the neighborhood preservation area.”

Councilwoman Jackson said, “Yes.”

Councilmember Wagner said, "Right, under neighborhood preservation. Now, the record was, as my buddy, Councilmember Gregorie said, the wrinkle is, where is neighborhood preservation?"

Mayor Tecklenburg said, "Right, exactly."

Councilwoman Jackson said, "That's right."

Councilmember Wagner said, "So, technically, I don't see where we have a choice to defer it, now that this has been explained."

Councilwoman Jackson said, "Thank you."

Councilmember Gregorie said, "The 5,000 square feet is not something that came from me. That came by staff. They put that there."

Mayor Tecklenburg asked, "But you made the motion."

Councilmember Gregorie said, "I did, and it's been seconded."

Councilmember Seekings said, "There is no other motion on the floor."

Mayor Tecklenburg said, "And it's on the floor, despite where it came from."

Councilmember Gregorie said, "Let's vote on it."

Mayor Tecklenburg asked, "Is there any other discussion?"

Councilwoman Jackson asked, "What is the motion? I would like to hear the motion, please."

The Clerk said, "The motion was to approve –"

Councilmember Moody said, "It's to give first reading to this ordinance, and I thought there was an amendment to correct the lines."

Councilmember Seekings said, "That's correct."

The Clerk said, "It was to give first reading, and it's an amendment of the map because the City and County are not consistent boundaries in the Overlay. That's what I wrote."

Mayor Tecklenburg said, "I think Madam Counsel would like to straighten this out a little bit."

Frances Cantwell said, "It's perfectly legitimate to amend the motion that's before Council, but if you're adding a map amendment to the ordinance that you want to pass, then that has never been to the Planning Commission, and it needs to go back through."

Councilmember Moody said, "It's got to go back through anyway."

The Clerk said, "The amendment speaks to the map."

Councilmember Shahid said, "We can vote on the amendment, specifically."

Mayor Tecklenburg said, "I would make the case, and maybe we erred in bringing this matter about the 5,000 feet to you. It was a way to accomplish, I guess, what some of the property owners had requested. It seems to me, a better way to fix it, if you're going to fix it, is to change the map, rather than changing the rule about 5,000 feet. Does that make sense?"

Councilwoman Jackson said, "Yes."

Councilmember Gregorie said, "That's easy. Do you want me to make my motion?"

Mayor Tecklenburg said, "I think you might garner a second now, on the motion to defer."

Mayor Tecklenburg recognized Councilmember Griffin.

Councilmember Griffin said, "Are we sure that the County and the Town of James Island, that it's not the maximum footprint, it's not the gross floor area. The City is the only one that says that in parentheses."

Councilwoman Jackson said, "Yes, I would like to speak to that, please. I spoke to each of the Planning Directors at the County and Town myself this week, and Mr. Morgan had told me, at the very beginning, that the City, in discussions with the Town and the County, as the City was working to revise their Folly Road Overlay and get into the game this past year, that each of the jurisdictions intended it to be a maximum of 5,000 square feet for the entire building in the neighborhood preservation district. So, on that basis of intent, the City made their text more clear to understand using the words 'gross floor area.' Then, when I called the Planning Directors of the County and the Town, they each confirmed to me that that was their intent, and yes, maybe they should have had a better description, too, falling in line with the City, but they went first, and they did not do that. If they had to interpret their ordinance to an applicant, they would limit the building size to 5,000 square feet maximum to the entire building. So, I'm sorry if there's no other testimony from our Planning staff, but I swear to you, I talked to each one of them, and that's what they told me."

Councilmember Moody said, "If we move the line to Grimball, the 5,000 –"

Councilwoman Jackson said, "Becomes irrelevant."

Councilmember Moody continued, "It goes away. This whole thing, I know in talking with Mr. Wilson, it almost looks like, in order to try and make them compatible, they've added this 5,000 square feet into this no man's land, between Rafeal and Grimball. If you look at James Island, and you say, 'tell me five streets on James Island where the main streets are,' you are going to say, 'Folly Road, Riverland Terrace, Camp Road, Fort Johnson Road, Grimball Road,' and that's about it. So, it makes sense that this would be more commercial and less residential on Grimball Road. I mean, it's one of the main things. What I was told, by our attorney, was that we couldn't just amend this motion, if you want to defer it. I thought what we were saying was we want, if this is all we're going to get, we'll give first reading on this, and we want this line moved. So, whatever the best way to get the line moved to Grimball, I'm for it."

Councilwoman Jackson said, "Next month."

Councilmember Seekings said, "The best way to do it, Councilmember Moody, I think, and Mr. Mayor, is to give first reading to Councilmember Gregorie's motion, along with the line. We've been told it then goes to the Planning Commission. It goes as a package, see what the Planning Commission does to it, and come back. If we defer it, the Wilsons and everybody else

are still in limbo. Let's get it to the Planning Commission and get it back. The only way to do that is to vote for this as a package tonight."

Mayor Tecklenburg asked, "Why do we need the first part of the packet?"

Councilmember Seekings said, "Because our staff wanted to put it in there anyway. We can do it without the package. We can just do the line. Why would we just send it as a packet?"

Mayor Tecklenburg said, "If we move the line, it still has to go the Planning Commission and come back, right?"

Ms. Cantwell said, "It does because I think it's a text change, but it's a map, and the issue of whether or not the line should be moved as this Council adopted whenever you did, the Planning Commission's never weighed-in on it."

Councilwoman Jackson said, "Can we ask Mr. Lindsey to ask the neighborhood preservation districts to be changed by the way this amendment is written? After they know what they know tonight, based on being out of sync with the Town and the County, if we take this vote, to increase the size of the building in the City ordinance, and leave it at 5,000 square feet for the Town and the County, I would like to hear from Mr. Lindsey if he thinks that's wise planning."

Mr. Lindsey said, "I'm going to be as specific as I possibly can about this matter. The Town and the County do not differentiate in their ordinance language between the idea of footprint and gross floor area, and we do. It's used throughout the ordinances, specifically, in various ways. So, when something in the County's ordinance says 5,000 square feet, we would have to choose to interpret it one way or the other, because we have a more specific zoning language in that regard. The other Planning Directors have represented to us that they would interpret as footprint, and if we were going to be consistent, that's also how we would interpret it."

Councilwoman Jackson said, "No, that is not what they said, Mr. Lindsey."

Mr. Lindsey said, "Mayor and Council, if you could give me just a few minutes to huddle. Let's talk about this. I want to be clear, on the record, about this matter."

Christopher Morgan said, "Councilwoman Jackson, I talk to Joel almost every day about all kinds of things. One day, in the context of the conversation, I said 'Oh yeah, we're looking at some Folly Road situations. How do you all interpret that 5,000 square feet limitation?', and he said, 'Oh, that's a footprint.' I said, 'It's a footprint,' and he said, 'Yeah.' Later, several weeks later, I heard from his Deputy Director, 'No, no, Joel was wrong about that. It's the total square footage.'"

Councilwoman Jackson said, "And that's what Joel told me himself. He had answered you off the top of his head because normally they do treat it as footprint, but in this case, it was the entire building, and his staff corrected him, and he stood corrected."

Mr. Morgan said, "That's correct."

Councilmember Shahid said, "Call for the question, Mr. Mayor."

Mayor Tecklenburg said, "But the whole thing has moved."

Councilwoman Jackson said, "Yes."

Mayor Tecklenburg said, "If these properties are in the South Village area, as opposed to the neighborhood preservation area."

Councilmember Seekings said, "Hang on, Mr. Mayor. Maybe not, because if we send this as a package to the Planning Commission, what if the Planning Commission comes back with a mixed bag and says, 'Don't move the line.' Then, you're going to want that language. Send it as a package. That's the way to do it."

Councilmember Shahid said "Call for the question."

Councilmember Gregorie said, "That's the safeguard."

Mayor Tecklenburg said, "We have a motion. We have a second. Any conversation?"

On a motion of Councilmember Gregorie, seconded by Councilmember Seekings, City Council voted to give first reading to the following bill, as amended:

An ordinance to amend section 54-229.8 of Chapter 54 of the Code of the City of Charleston (Zoning Ordinance) by changing building size restrictions in the neighborhood preservation sub-area in the Folly Road (FR) Overlay Zone to permit a maximum footprint of 5,000 square feet in place of a maximum gross floor area of 5,000 square feet. (AS AMENDED)

The vote was not unanimous. Councilmember Wagner, Councilwoman Jackson, and Mayor Tecklenburg voted nay.

The Clerk said, "I have two 'no's.' Councilmember Wagner, I have to look for his hand. So, I think we have three 'no's.' Councilmember Wagner, Councilwoman Jackson, and Mayor Tecklenburg."

Mayor Tecklenburg said, "Alright. So, next we have an ordinance to amend the moratorium for Church Creek Basin, to extend it for another six months."

Councilmember Griffin said, "Move for approval."

Mayor Tecklenburg said, "As a matter of protocol, this matter also came before the Public Works Committee this afternoon and, at the Committee, it was the pledge of the of the Committee to recommend that only three months be essentially made. So, for what it's worth, that's what the Committee recommended."

Mayor Tecklenburg recognized Councilmember Griffin.

Councilmember Griffin said, "I just wanted to make a note that I did not vote on that six-month in our Committee meeting. I was not on the phone, and I did not submit that."

Mayor Tecklenburg said, "That's correct, but then we voted on –"

Councilmember Griffin said, "We did vote on that, a 2 to 2 vote."

Mayor Tecklenburg said, "The six month motion did not pass in the Committee because it was tied 2 to 2. Then, we had a vote on three months, and it passed unanimously. But the way our agenda, here, is written, we need to amend number L-3, if in fact you want it to be –"

Councilmember Griffin said, "Move for approval."

Councilmember Lewis said, "Second."

Councilmember Moody said, "Well, he moved for approval. I don't know if he got a second, but if he did, I'm going to move that we amend it to three."

The Clerk said, "He did. Councilmember Lewis was the second."

Councilmember Lewis said, "He moved for approval to amend it. I seconded it."

Mayor Tecklenburg said, "Councilmember Griffin, your motion would be to approve a six-month extension."

Councilmember Griffin said, "Absolutely."

Mayor Tecklenburg said, "Okay. I'm confused."

Councilmember Lewis said, "I thought you were going to amend it for the three-month with the Public Works and Utilities Committee."

Councilmember Griffin said, "It was two to two on the six-month."

Mayor Tecklenburg said, "Correct."

Councilmember Seekings said, "The report out of the Committee was three months. Shouldn't we vote on the report out of Committee? That's kind of how we do it."

Councilmember Wagner said, "And we accepted what was in the Committee report."

Councilmember Seekings said, "We did. That's true."

Councilmember Wagner said, "We have no choice, but to turn this back to three months."

Mayor Tecklenburg said, "It's a little odd, if I may say, because the matter is not listed in the Council Committee report agenda on my agenda if you go back to letter 'j.'"

Ms. Herdina said, "Mayor, can I mention something that was brought to my attention. Apparently, at the Committee meeting, this matter was listed as discussion only, for informational purposes only. So, I think we would be offending the rules of public meetings if we considered that vote to be a formal vote. I mean it can certainly come to Council as a recommendation of the Committee, but again, I think what you have in front of you is the six-month extension, which you can either accept or amend. I would recommend that we consider what came from Public Works as a recommendation, not as an action, because it was not listed that way for purposes of the agenda."

Mayor Tecklenburg said, "I just want to try to make that clear. So, we have a motion on the floor to extend it for six months, and it's been seconded."

The Clerk said, "Six months, yes. Councilmember Griffin made the motion. Councilmember Lewis seconded."

Councilmember Griffin asked, "Do you want to?"

Councilmember Lewis said, "I'll go with that."

Mayor Tecklenburg said, "He's fine. So, is there any further discussion?"

Mayor Tecklenburg recognized Councilmember Seekings.

Councilmember Seekings said, "Sorry, I know it's late. So, when did we first enact this? How long have we had this moratorium?"

Councilmember Moody said, "May of last year, I think."

Laura Cabiness said, "I believe it was February, and it went until November. Then, it was extended again, until May."

Councilmember Seekings asked, "When did we get our report?"

Mayor Tecklenburg said, "About six months ago."

Councilmember Seekings said, "Okay. Just a couple of points here. So, we've had a moratorium in place for nine months. We've had the report in our hand for six months, and it's a report. It's not a plan. It's a report. It's got a lot of different things in it, some recommendations. It's not a plan. It's a report. So, we do three months, we do six months. What are we going to do during that time? What is the objective? Are we going to adopt parts of the plan? Are we going to figure out funding sources to do some things? I mean, 'moratorium' sounds great, and I know that people out there are nervous about building in floodplains. I am one of them, chief amongst them, but we've got to come up with not just a report, but a plan based on that report and information we get from Ms. Cabiness and her staff. We need a plan that's not just a plan, but also funded if it includes doing some repairs, some changes, or some rezonings. I mean, it talks about a whole bunch of stuff. It's late in the evening. We vote on a moratorium, but I would like to have some knowledge. I hope my fellow Councilmembers want to know what we're going to do and what the objective during that six-month, three-month, or whatever period it is, because there are citizens sitting here tonight who own property out there. They want to know what's going on, and I don't blame them."

Mayor Tecklenburg said, "Ms. Cabiness did address that this afternoon, so I'm going to ask her to repeat her response."

Ms. Cabiness said, "So, we had a staff team that met regularly as we worked regularly through the last phase of the moratorium. It included Mark Wilbert. It included our floodplain manager, Frances Cantwell, myself, and Katie McKain from Planning. We ultimately came up with a flood mitigation plan, a Church Creek Basin plan of action, to go through the next six months.

The first thing we would do is look at the proposed stormwater regulations that were proposed by Weston & Sampson. I guess it came out after the report. They weren't in the original report. We would like some time to go ahead and apply those proposed regulations to a typical development in the Church Creek Basin, and just validate the effect that those regulations would have in the basin to understand it a little bit better. Right now, we've made some good, educated recommendations, but we really don't know what the ultimate effect would be on development.

The second thing we would do is review our stormwater maintenance plan. That was in the plan and we talked about some enhanced stormwater maintenance. We currently have

Church Creek on an elevated level of maintenance. It's getting maintenance twice a year in Church Creek and, of course, every time we have a storm, it's one of the areas that we go check and make sure there aren't any blockages, and it's ready for the storm. We would go ahead and review that and give you some more specifics on maintenance. We would also continue with the mitigation strategy which, as you know, we're buying out the houses in Church Creek. Most important about that, I think, is looking at the infrastructure that was recommended in the plan, as a scalable effort, that may change based on the buyouts that we're doing right now. So, we've got about 43 buyouts in the Church Creek Basin, I believe. I think we need to look at what other strategic buyouts we might be able to do that might change what we would do infrastructure wise. Maybe it would be a smaller pump station or other efforts, but we think that would take us six months to do. If we were forced to do a shorter moratorium, we would just have to scale that back before the end and focus on the regulations in place and getting those right."

Councilmember Seekings asked, "Can I ask just a quick follow-up. Are you going to be working in conjunction with Ms. Wharton, so whatever recommendations you have, we have to figure out if we've got them funded or if we can fund them. I mean, that's really, in the end, the biggest issue out there. What are we going to do, and what's it going to cost, and something that we haven't budgeted for in 2018. I worry about that in a six-month moratorium phase. When we come out and say, 'We need to do all these things, whatever they are, large scale, small scale, some buyouts, some pump stations, some more retention ponds, whatever it is, that costs money, and we say, 'We can't do it.' Then, what are we going to do? Extend the moratorium? I worry about that, Mr. Mayor, and I think it's great that we're doing all of this work. We need to do all this work, but there's more to come on this, I think."

Mayor Tecklenburg said, "Right."

Mayor Tecklenburg recognized Councilmember Wagner followed by Councilmember Griffin.

Councilmember Wagner said, "Okay. I'm going to kind of repeat the argument from Public Works, not the argument, but the discussion. Quite frankly, it was very much along the lines of what Councilmember Seekings just said. This thing has been out here now with an extension for almost a year, and we're no closer to knowing what we're going to do, I don't think, than what we have. Now, a moratorium, another six months, is not really going to help us. So, what Councilmember Waring and I agreed upon, and basically said during Public Works, was why not three months. Let's get it together. That gives us time to do what we have to do, and it gives Laura and Mark time to do what they have to do. You can always add time. You can't take time away. We give them six months, okay? That six months is locked. Now, we're 15 months into a process called 'moratorium,' whereas property owners didn't have a chance, they can't do anything with that land, not for just a year. Now, we're going to be into the 15th, 16th month.

We have, as Councilmember Seekings said, an issue with funding. We've got to know where we're going, and we've got to know how much it's going to cost. Right now, we don't have that. At the end of three months, we've got it. We're going to be right dead in the middle of hurricane season again, and that could change everything. It doesn't matter what we say or do. That could be a game changer, so let's do three months, and then extend it and agree. Once we see what has to happen, we'll go another three months if we have to, and it might only take us three months to get to the end point."

Mayor Tecklenburg recognized Councilmember Griffin followed by Councilmember Shealy.

Councilmember Griffin said, "The reason why I made a motion to accept this six months is because ultimately, if you ask people in my district, they want a moratorium for ten years, but that isn't going to happen. It just isn't good government. It isn't good for our economy, but there are some things that I want to bring up. Number one, the reason why we need a moratorium, I don't even want to talk about the length, just the reason why really quick, is because if we have this plan of action that we want to put into place, and we lift this moratorium, then there are going to be projects that are going to start under the old guidelines. Then, by the time we got this finished, we would have more projects that would go into this new plan of action. We have some big, large scale projects that are going to be under the old rules, which is going to be a problem, I think, having all of these projects that have been waiting and waiting and waiting for this moratorium to lift. They're under the old rules, and we've got these new rules. I don't agree with the fact, or with the statement, that we've had the report for six months because, Bob, if you don't mind, we publicized that document end of March, early April. I've asked for those documents since January, since I got elected, and I didn't see it until March. So, to say we've had it for six months, I don't agree with that at all. I'm afraid a little bit for a six-month moratorium because the first year, we really didn't do much. I know we had a report that was being done, but we did not get a lot accomplished that first year. Then, we extended it, and we did make some improvements. We started the FEMA Buyout, which I think is what would have happened anyway, whether we had a moratorium or not, but we also started with this plan of action.

We can't have a six-month moratorium and have staff come to us at five months and a week and say, 'You all have to give us another six months, and we've got this plan that we need you all to go through.' They've been meeting since January. Councilmember Shealy and I and some other people on an advisory board met for two hours one time and went through this entire thing. The developers that were looking at this document picked it apart. They said, 'That's not going to work, that's not going to work.' There are a lot of things. This document is going to have to be really scrutinized by us, eventually, if it ever gets to us.

Another reason why three months isn't a good idea is, you're putting it right in the middle of hurricane season, so are we going to lift the moratorium and let people start building when we've got potential tropical storms or hurricanes coming at us? I don't think that's a smart idea. It's a tough situation. I've got to go where District 10 would want me to go, which would be a moratorium until the end of time. I can't get that, so I'm asking for six months."

Mayor Tecklenburg recognized Councilmember Shealy.

Councilmember Shealy said, "Thank you, Mr. Mayor. We've got to make sure we get these stormwater regulations for brand new developments in place before we allow building to take place. There are a lot of different regulations. There's a 72-hour holdback. If that's a necessity, we've got to have that in place before these developers start developing right now. We've got a lot of different regulations right here that, if we don't have this moratorium in place, we're going to really screw up. We're going to regret it in the future if we don't have these regulations in place and have the maintenance plan in place, as well, before this building starts. We've spent a lot of money, and we've spent a lot of time, but we've got to make sure to take the time to do this right. This is critical at this point. We've got to have the moratorium to do it right."

Councilmember Shahid said, "Mr. Mayor."

Mayor Tecklenburg recognized Councilmember Moody followed by Councilmember Shahid.

Councilmember Moody said, "Let me address several things here. These stormwater regulations, they are critical, and that's why I would ask Ms. Cabiness how long it would take for us to get those in place. I know they're working on them. We've already got some of them. We need to get those in place, and it won't take us three months, I don't believe, to get those in place. Maybe in another month or so, or certainly by our July meeting, we ought to be able to have that. I'm not willing to go on out with an extension to six months because I don't think anything's going to happen before about four or five months. So, I want to squeeze that back. I think there are several other things we need to do. We need to look at the consultant we had and all this property we bought from FEMA. Nobody has made a determination what impact that would have on the rest of the basin, if we bought up those properties and created a retention pond there. I think Councilmember Griffin mentioned the Whitfield family had given us 50 acres up in the northern part of the basin that could be used for retention. Nobody's made any impact on that. So, what we've done in the past is, we've put a moratorium in place, and we sat around and hoped that's going to save something. This moratorium out there is no different from the one on James Island, Johns Island. It's a delaying tactic to push things down the road and hope they'll go away. What I'm asking tonight is that we look at three months, 90 days. We give the staff the instructions to work on these regulations, to get those in place, look at some of this retention, look at how we might affect that. Somebody said earlier, we haven't put the first dime out there, that I'm aware of, that would look at these easements, whether or not they need to be wider. We already know they need to be wider. The question is where is the money to buy additional easements. Nobody's out there planning on that kind of stuff. So, these are a few things we can do right now in three months, and we'll take a look at it in three months and see where we are. If you're going to do six months, you better put something every month you want done, or it won't get done in six months."

Mayor Tecklenburg recognized Councilmember Shahid.

Councilmember Shahid said, "Mr. Lindsey, can I ask you how many projects are sort of percolating out there? Do you know that?"

Mr. Lindsey said, "I don't that off the top of my head. I know that we previously produced a map. I don't know if, Laura, you recall the number that is on the map, but I don't remember the exact number."

Ms. Cabiness said, "One thing is, the moratorium only applies to the 100-year floodplain. So, it's not the entire basin. It was just in the 100-year floodplain, and I think there were four or five projects that were in the works in the floodplain that have not moved further."

Councilmember Shahid asked, "What was the size or the scope of those projects? Do you know?"

Ms. Cabiness said, "There was, I think, an apartment complex. The biggest, largest one was the Harmony Project that's down below the railroad tracks. There is a shopping center-type thing up on Bees Ferry Road in Shadowmoss Parkway. Those are the three that have been the most active lately."

Mayor Tecklenburg recognized Councilmember Griffin.

Councilmember Shahid said, "Just as a follow-up, Mr. Mayor, those are projects that, once the moratorium exhausted, they get the green light to go forward."

Ms. Cabiness said, "Unless we have new regulations in place."

Councilmember Shahid asked, "Just to make sure I'm following this, what you are proposing, would that have an impact on those particular projects that you just mentioned?"

Ms. Cabiness said, "I believe so, yes."

Mr. Lindsey said, "Yes, in our interpretation, it would."

Councilmember Shahid said, "Thank you."

Councilmember Griffin said, "Councilmember Moody, a lot of what you said was right, very much to a T, but there's one thing that we're not thinking about here, and that is, yes, Bridgepointe is going to create some greenspace that could be retention, but those properties will not be bought out in 90 days."

Councilmember Moody said, "Study that."

Councilmember Griffin said, "I know, study that, but if we're actually talking about implementing something, the City has 90 days to tear that down after the buyout is complete, and then we can actually get some mitigation in there. So, that's going to take some time. That is some acreage that we can put towards flood relief."

Councilmember Moody said, "Let me respond."

Mayor Tecklenburg recognized Councilwoman Jackson.

Councilmember Moody said, "Let me respond to his statement about the flooding."

Mayor Tecklenburg recognized Councilmember Moody.

Councilmember Moody said, "What I said was that you need to study what the possible impact of creating that retention may have. It won't take long to do that, so if that's going to hold a gallon of water, then that's a gallon you won't have to deal with down the road. That's all I'm saying, study it. I'm not saying mitigate everything. I'm saying study it, but that's something you can do right now to figure out where you're going."

Mayor Tecklenburg recognized Councilwoman Jackson, followed by Councilmember Wagner.

Mayor Tecklenburg said, "Then, let's call for the question."

Councilwoman Jackson said, "Thank you, Mayor. Yes, I'm going to vote for the six-month moratorium. I feel like we're learning what we need to know for the entire City on this Church Creek Basin. I want to get it right. I want the regulations in place. I know that Councilmember Wagner and I have had conversations back and forth. We're entertaining studies for flooding on James Island and Johns Island that won't be completed, even in six months. We need those regulations, and we need them everywhere. We're assuming that the staff that serves the entire City has nothing to do, except Church Creek Basin, in the next three months. So, I think we need to respect the process. I know it feels like we've done nothing in

the last year. This is a 1,000-year problem that we're trying to solve, and I do think that we need to have the six months in order to get it right."

Mayor Tecklenburg recognized Councilmember Wagner.

Mayor Tecklenburg said, "Then, let's vote."

Councilmember Wagner said, "One question before we call the other question. Who's driving the train? We're getting certain directions from Planning. We're getting some from Public Works and Engineering, and we've got Mark (Wilbert) out here working himself to death through Sustainability. So, we have the Sustainability Committee. Who's actually looking at the holistic picture? That's what I'm looking for. That's why I'm asking for three months, and then we get as far as we can down the road in two and half months, but think about this. If we said, 'Let's go today,' this thing does not go into effect, at the earliest, will be in July, or June. We have a June meeting. So, the best case, we're looking at four months. Councilmember Griffin and I talked about this but, where I'm trying to get to is, there weren't that many things that we knew we had to do. What's happened is, they've snowballed on Public Works. That's, technically, what happened. Every time we get one place, here comes another. We've kind of talked about that, but I'm going to go with the three months, with the option of doing three additional months later. I'm ready to call for the question."

Mayor Tecklenburg said, "Right now, the motion on the floor is to extend it for six months. Can I respectfully call the question?"

On a motion of Councilmember Griffin, seconded by Councilmember Lewis, City Council voted to give first reading to the following bill:

An ordinance to amend Ordinance No. 2017-060 that established a Temporary Moratorium on the acceptance or processing of applications for new construction on properties located in the 100 year floodplain within the Church Creek Drainage Basin for an additional period of six months.

The vote was not unanimous. Councilmembers Wagner, Gregorie, and Moody voted nay.

Mayor Tecklenburg said, "The motion passes."

The Clerk said, "That was two people."

Mayor Tecklenburg said, "Right."

Councilmember Griffin said, "Three."

Mayor Tecklenburg asked, "Who was the third?"

Councilmember Griffin said, "Moody, Wagner, and Gregorie."

Mayor Tecklenburg said, "Gregorie. Okay. So, good news, you all. We're getting close. Believe it or not, we had on our agenda to have an executive session regarding an opioid lawsuit. Attorney Herdina informed me that she can advise us and give us a quick update without having to go into executive session. So, if you would just hang with us about five more minutes, we'll get this update, and then we'll be out of here. Susan."

Ms. Herdina said, "Really quickly, what we are asking is the City file a lawsuit against the drug manufacturers and distributors of opioids. The City would like to retain Capers Barr and his team of lawyers to represent us in the matter. I don't think I need to explain opioid drugs to anybody. I don't think I need to explain the impact that it's been having on the State, the County, and the City. For example, we have shown that our Police Department has responded to 477 drug violations that involved opioids, 64 deaths involving opioids in the last two years. In the last 18 months, the Fire Department responded to 31 calls where NARCAN was distributed. So, we've got a crisis that impacts Fire and Police. It impacts our Prosecutor's office, our Courts, and victims' assistance programs.

There have been a number of lawsuits that have been filed by counties around South Carolina. Myrtle Beach has just approved the filing of a lawsuit involving Capers Barr's team of lawyers. What the lawsuits are about is to seek damages. Basically, what we would be seeking is costs that the City has incurred, in the past, in responding to the opioid crisis and money in the future for future costs. The suits would be filed in State Court as an individual case, not a class action, and we would be, again, looking at what costs the City has incurred in the past and potentially in the future and trying to recoup the costs. The lawsuit would be filed against the drug manufacturers and distributors of the drugs, the theory being that they knew the drugs should not be prescribed for long-term use, but yet they went ahead and marketed it that way. This is just a very abbreviated version. I'm happy to answer any questions. I think there's good public policy reasons to do this. Capers, who's here to answer questions for us, is with a consortium of lawyers. The lead lawyer is an attorney out of New York, by the name of Marc Bern. Capers and his team are representing 27 or 28 counties around the State and, just as I said, recently were retained by Myrtle Beach. They would handle this matter on a 25 percent contingent fee basis, which means that the City would pay nothing to the lawyers if we lost. If we got a recovery, we would be responsible to pay the attorney's fees of 25 percent of the gross recovery. They are not charging us for the expenses involved in preparing the case, and we would not be responsible for paying expenses at the end of the day, win or lose. They are just taking it on a straight 25 percent contingency fee.

So, what's the likelihood of success? It's very hard, at this point, to judge that. We do know that we have some damages in the past, some of them in the future. It will probably be years before this case gets settled or resolved, but we think that we should proceed with the filing of a lawsuit at this point and join. Again, we're not formally joining the other counties and Myrtle Beach, but we would be, basically, in-step with what they're doing. I'm happy to talk to any of you individually. Capers is here today if you have any questions, but again, we would like to, with your approval, go forward with approving the filing of litigation, at some point, against these opioid drug manufacturers and distributors."

Mayor Tecklenburg said, "Alright. Are there any questions for Ms. Herdina? Do we require a motion to move forward?"

Ms. Herdina said, "Councilmember Seekings."

Councilmember Seekings said, "I do, but the hour is late. I'd like to sit down and just talk with Capers and you about a couple of the particulars of it. I'm sure Councilmember Shahid would, too."

Ms. Herdina said, "Okay. We can do that."

Mayor Tecklenburg said, "We can do that. Absolutely."

Mayor Tecklenburg recognized Councilmember Moody.

Councilmember Moody said, "Explain a little bit. I didn't quite get what you were talking about. What are our damages as a City?"

Ms. Herdina said, "As a City, our damages would be costs that we have incurred, well, our officers' training costs in how to respond to overdose, to victims who we go out and respond to. So, there are training costs for Fire and Police. There's the cost of the purchase of the NARCAN itself, and there's Municipal Court time, Prosecutor's time, and I don't know, Capers, if there's anything else that you can think of. We've done a very rough estimate of what our costs may have been over the last three years. Again, this is very grossed, somewhere in the neighborhood of \$50,000 to \$100,000 maximum. I will tell you that the counties probably have more costs than the City does because they have jails, they've got hospitals, and so, their damages are potentially more and most likely more than ours are. On the other hand, we know we have had costs. We will have some costs in the future, and we think that it's money that, frankly, we should make an effort to recover, which is at no cost to us because the lawyers are willing to do it on a contingency basis."

Councilmember Moody continued, "So, the group that we're going after are not the pharmaceuticals, but the distributors?"

Ms. Herdina said, "It's both."

Councilmember Moody said, "Both, and what about the physicians or the doctors, the prescribers?"

Ms. Herdina said, "At this point, there's no intention of going against any local doctor. The focus is on, basically, the big drug manufacturers and the distributors."

Councilmember Moody said, "Okay. Thank you."

Mayor Tecklenburg asked, "Are there any other questions?"

Ms. Herdina said, "As Councilmember White said, 'Where the money's at.'"

Councilmember Seekings said, "I have one more question. Has Charleston County either filed or signed on to retain? Has Charleston County either filed a case or signed on with you all yet?"

Capers Barr said, "Charleston County has not yet signed up. I think Andy Savage is on the team and is working with them, but they have not signed up, but there are suits."

The Clerk said, "Capers, he needs to get to the microphone."

Mayor Tecklenburg said, "Speak into the microphone, please."

Several Councilmembers said, "We heard him."

The Clerk said, "Yes, but did the people watching the video hear him?"

Ms. Herdina said, "We'd be happy to go to Councilmember Seekings and anyone else who would like to speak with us about this further."

Mr. Barr said, "One case has been filed. Twenty-four counties signed up. One case has been filed in Greenville, which was removed to Federal Court, but last week was remanded to State Court. That was the test case to see if we could keep them all in State. Now, we will file a round of cases in State Court. The range of defendants are from the manufacturers all the way down to the distributors, including distributors at the local level."

Councilmember Moody asked, "Does that include Walgreens or pharmacies and stuff like that?"

Mr. Barr said, "Yes, several pharmacies. Rite Aid has been named. Of course, the underlying theory is that particular manufacturers misrepresented, not only to the public, but to the prescribing physician community, the non-addictive qualities of these opioid drugs, which are intensely addictive. The tragedy is, I'll get off of my soapbox here, but the tragedy is so many addicts, so many people, have become addicted to opioids innocently, simply because they have been treated for pain. They've been prescribed the medication. They come back for more, and within two rounds of only seven day prescriptions, they become hooked on it. That's the sheer tragedy, and it trickles on down to the local distributor level who knew and should have known about it. Of course, now, it's reaching the black market, and in addition to the impact costs to Police and Fire, as you know, you're self-insured for health insurance and workers' comp. So, I think that also presents an opportunity to explore some calculus for damages suffered by you. That's it in a nutshell."

Councilmember Seekings said, "One caveat, I'm not going to vote on this. I think we should do it, but I don't know who all the defendants are. We have clients out there. I represent some people from the pharmaceutical world. I'd like to sort of not vote for this, currently. You got it? I'm abstaining because I don't know if I have conflicts."

Mayor Tecklenburg said, "I don't think we're calling for a vote."

Ms. Herdina said, "No."

Mayor Tecklenburg said, "It's just for information. He's going to meet with more of you all. The next City Council meeting won't be until Tuesday, June 19th, and we are hereby adjourned."

There being no further business, City Council adjourned at 9:40 p.m.

Vanessa Turner Maybank
Clerk of Council

