



*Beaufort County  
Capital Project Sales Tax  
Commission  
Agenda*

Monday, April 21, 2014

6:30 p.m.

Beaufort County Council Chambers  
100 Ribaut Road

Members:

Mike Covert  
Craig Forrest  
Scott Graber  
Jeffrey Robinowich  
Bill Robinson  
Scott Richardson

1. Call to Order  
Chairman Craig Forrest
2. Pledge of Allegiance
3. Approval of Capital Project Sales Tax Commission minutes
  - A. April 10, 2014 meeting ([backup](#))
4. Public Comment
  - A. Each presentation is not to exceed 10 minutes
5. Adjourn

## **Capital Project Sales Tax Commission – April 10, 2014 Meeting**

### **Call to Order:**

Mr. Gary Kubic, Beaufort County Administrator, called the meeting. He welcomed the new commission members. On behalf of Council and Administration Mr. Kubic thanked the Commission members for their time in volunteering during this process.

Mr. Kubic explained The County Channel will carry the meetings live allowing the public to see and hear what is happening without having to travel to the meeting. After it is carried live all of the meetings can be found online as well.

### **Pledge of Allegiance:**

Mr. Kubic leads the Commission members and audience in the Pledge of Allegiance

### **Introduction of Commission Members/Attendance**

All of the members introduced themselves to the public and said what area of Beaufort County they are representing: Jeffrey Robinowich – Bluffton, Scott Graber – Port Royal, Mike Covert – Bluffton, Scott Richardson – Hilton Head Island, Craig Forrest – Beaufort County. (Bill Richardson as the 6<sup>th</sup> member of the Commission representing Beaufort was absent)

### **Presentation of Capital Project Sales Tax Act & Freedom of Information Act to Commission Members:**

Mr. Joshua Gruber, County Attorney, explained on Feb. 24 County Council adopted a resolution to create the Project Sales Tax Commission made up of 3 members representing the County at large and 3 members representing the municipalities. Primary role of the Commission is to consider proposals for funding within the county area. The commission then formulates the referendum question that is to appear on the ballot. That question is forwarded to County Council and Council will either approve the question or send it back to Commission. If approved, it will appear on the November 2014 ballot.

Mr. Gruber provided the Commission members an example of the ballot question. Under the elements of capital project sales tax referendum ballot question there are three components: 1) Time – the commission is allowed to impose the capital project sales tax in increments of 2 years for no longer than 8 years, 2) Amount – 2 specific items which is the maximum cost of the projects brought before the commission and whether or not as the projects will pay as they go or will the County be permitted to take out bonds. The bonds would be paid off gradually, 3) Types of projects that are considered capital – roads, highways, streets, bridges, buildings like courthouses, libraries, jails, athletic fields, cultural, historical, water, sewer, flood control, beach re-nourishment, dredging of waterways....etc. Mr. Gruber says the list is not exclusive to projects the Commission wants to bring forward. Mr. Gruber advises the Commission to

determine how long they want the referendum to last so they can figure out how much money will be collected, and then the Commission will know how many projects they can fund. What happens after the ballot question is formed? County Council can't amend the wording of the referendum. They must approve it or reject in its entirety. If approved by Council, it will be sent to the Beaufort County Board of Elections.

### **Important Dates for Commission Members:**

Mr. Gruber expressed the importance of dates the Commission must pay attention to when deciding meetings. All referendum questions must be submitted by August 15<sup>th</sup> at noon to the County Board of Elections to be on the November ballot. Also important, the Commission will be submitting an ordinance to County Council. County Council must approve the ordinance in three separate readings. Without calling special meetings, an ordinance will need to be submitted to County Council by June 24, 2014. In the same statute that lays out the timeline, it also states there is nothing that says the Commission must submit a question to County Council if the Commission feels they haven't had adequate time to compile a list of projects.

### **Commission Holding Future Public Meetings:**

How will the Commission go about carrying out their duties? Mr. Gruber instructed the Commission they will be holding a series of public meetings where the citizens of Beaufort County and the government entities within Beaufort County will be invited to provide what projects they believe should be on the final list. Mr. Gruber stressed in holding these public meetings, the Commission is considered a public body for the purposes of the South Carolina Freedom of Information Act. As a public body, the Commission is required to hold all meetings in the public allowing the citizens to hear what actions the Commission is taking in regard to their life. A meeting is defined as a quorum of this body meeting together for purposes relating to the Capital Project Sales Tax. 4 members are considered a quorum. It is required, when having a meeting, to advertise publically the date, time and location of each meeting. Mr. Gruber told the Commission there is a way of the Commission meeting inadvertently. If a group email is sent to all of the members and a conversation among members continues through email, this is considered a meeting and under the SC Freedom of Information Act all of the email exchanges are considered improper because the meeting was not advertised. Mr. Gruber said Commission members should not exchange emails with one another about projects they are for or against. Only have these discussions in an open scheduled public meeting. No chance encounters provision – if a Commission member shows up at a restaurant and there are other Commission members there. As long as they don't discuss the Capital Project Sales Tax material they are ok to stay at that restaurant.

### **Commission Members Questions:**

Commissioner Scott Richardson asked if this meant none of the Commission members were allowed to speak to one another at all. Mr. Gruber said Commission members can speak outside

public meetings but they can't speak about anything relating to the Capital Project Sales Tax Commission. Mr. Gruber also said it was fine to exchange emails in regard to "can I get a ride to this meeting" or "are you going to be at this meeting" but it would not be ok to exchange emails saying "I want to add this project to the list or take this project off the list".

Commissioner Richardson asked if emails could be exchanged if a question was asked "I didn't hear exactly what happened about so and so, can you let me know?" or "I can't remember what was said about a project?" Mr. Gruber said this line of questioning in an email would be ok but also reminded Commissioner Richardson that all of the CPSTC meetings will be carried live on The County Channel and all of the meetings will be placed online afterwards for the public to view.

Commissioner Forrest wanted to know if the public meetings would be held as a town hall with sharing information or will it be more like a testimony of information. Mr. Gruber let Commissioner Forrest know the Commission can decide how the meetings are run.

Commissioner Forrest asked, with the restrictions of the Commission getting together and discussing the projects not in a public meeting manner, how are agendas to future meetings and conversations on how the meetings should be run – when will those decisions take place? Mr. Gruber answered the Chairman of the Commission is typically in charge of what goes on the agenda. Mr. Gruber did point out discussions can take place among Commission members from a coordination aspect but discussions could not take place where Commission members were vying for one project verses another project – substantive information can't be discussed outside a public meeting. Commissioner Forrest asked if it was ok then to work with the staff liaison to the Commission, Joy Nelson, in putting the agenda together and how the public meetings will be run. Mr. Gruber said that was ok. Commissioner Gruber asked in regard to the projects that come before the Commission, will people walk to the podium or will the Commission get input from the municipalities. Mr. Gruber said the Commission will most likely hear from both the public and the municipalities. Commissioner Richardson asked where and how will it be decided the public meetings don't get out of hand. Mr. Gruber suggested deciding parameters before the meeting starts allowing the public to know what they can and can't do during a presentation. Commissioner Forrest believes there is tight definition of what the Commission can do. He is worried there may be public comment during the public meetings where people are not presenting projects but rather discussing tax increase. Commissioner Forrest asked if concerns from the public should be shared with County Council just as the Commission will be sharing the project list. Mr. Gruber said the sole purpose of the Commission is to write the language for the ballot question that will be presented to County Council. Mr. Gruber said there will be time for the public to come forward and voice their opinion on whether or not the referendum should be passed in November before the election. Commissioner Robinowich asked if he was able to speak to city managers about the projects or the public about the projects but he could not speak with the other Commission members about the projects. Mr. Gruber said conversations between Commissioner Robinowich and a city manager or person would not be considered a public

meeting so therefore it would be ok. Mr. Gruber did stress that ultimately all conversations should take place in a public meeting and conversations with others should be shared with the other Commission members in a public meeting.

### **Mr. Kubic Gives Overview and Background Information on 2004 Capital Projects Sales Tax Commission:**

Mr. Kubic said most people will come forward and say they want A, B, C but doesn't bring any other information to support their request. For the benefit of the public, well prepared presentations are a benefit to the Commission. Mr. Kubic suggested a point of contact for those who would like to submit a presentation early. He also said by the seventh meeting the 2004 Commission had, there was little participation. All of those who wanted to have their projects heard came to the initial meetings. Reliance on minutes and submittals are very important for the record. Mr. Kubic also suggested setting parameters of the presentations earlier than later. Mr. Gruber expanded on the public submitting project suggestions early. Mr. Gruber also explained the Commission will be in existence until the question is submitted to County Council. If for any reason a Commission member should have to step down, there are steps in place to replace a member.

### **Election of Chairman and Vice-Chairman of 2014 Capital Project Sales Tax Commission**

Mr. Kubic took to the podium to elect the Chairman and Vice-Chairman of the Commission. Mr. Kubic called for nominations for Chairman. Commissioner Craig Forrest nominated himself. Commissioner Robinowich made a motion to nominate Commissioner Forrest. Commissioner Mike Covert made a second to nominate Commissioner Forrest. No other nominations were made for Chairman. The Commission voted unanimously for Chairman Forrest. Mr. Kubic handed Chairman Forrest the gavel. Chairman Forrest then asked for nominations for the Vice-Chairman of the Commission. Commissioner Graber nominated Commissioner Richardson for Vice-Chairman. Commissioner Robinowich made a second to the nomination. Chairman Forrest asked for any discussion or further nominations. With none, the Commission voted unanimously for Commissioner Richardson to be Vice-Chairman.

Chairman Forrest made a motion to adopt the Robert Rules of Order in conducting Commission meetings. Vice-Chairman Richardson made a second to the motion. Commission voted unanimously to adopt the Robert Rules of Order.

### **Discussion of Dates for Future Meetings**

Chairman Forrest asked for Mr. Gruber's input for the adoption of the meeting schedule. Mr. Gruber suggested, due to the size of Beaufort County, to hold meetings both North of the Broad River and South of the Broad River. Mr. Gruber suggested to have two meetings North and two meetings South. He said after the first four, if additional meetings are necessary than those meetings can be scheduled. Vice-Chairman Richardson asked if the Commission meetings

should coordinate with County Council meetings or City Council meetings. Vice-Chairman Richardson said he didn't think Beaufort City or the County would make a presentation since they already have a Capital Improvement List in existence. Mr. Gruber stated while the municipalities have lists, he expects each municipality to come forward and give a presentation because of priority of projects. Mr. Gruber said to focus on looking at the Commission's schedule first to ensure there is a quorum at each meeting. He also suggested making the meetings during evening hours to ensure the public and government representatives can attend. Mr. Gruber asked, based on Mr. Gruber's experience, how many projects should the Commission expect to see. Mr. Gruber said it's hard to say a number but the list will most likely be extensive. Mr. Gruber said it would be good for the public to know they should come forward to the Commission with their top projects they want added to the list.

Vice-Chairman Richardson told the body he would like to meet on Mondays from 4-6 p.m. or 5-7 p.m. Commissioner Robinowich said the 4<sup>th</sup> Monday of each month is bad for him. Mr. Kubic said the day of week didn't matter but the time of the meeting was very important and suggested having the meetings at 6pm or later. Chairman Forrest asked with permission of the Commission to work with Mrs. Nelson out the days and locations. Mr. Gruber has a conflict with the second Monday of each month. Chairman Forrest said there may be conflicts with each member for one meeting or another but would like to start working with Mrs. Nelson to get the dates scheduled. Vice-Chairman Richardson said he would like to set some criteria for the presenters. The first set of criteria Vice-Chairman Richardson would like to see during a presentation is if there is another source of money to help pay for a specific project. He also stressed he want the list to be a need list not a want list. Chairman Forrest brought up the material he was sent (Capital Project Sales Tax Act & Freedom of Information Act) and asked what is a capital project? He wants the Commission to know exactly what a capital project is and all agree on the same definition. Chairman Forrest also stressed the presenters to only present a need list verses a want list. Chairman Forrest wants the government entities to know as well, he does not want to see a list of 100-200 projects. He wants those entities to narrow that list down and give a list of priorities of projects. He said the Commission doesn't have the time to go through large lists of projects. Commissioner Gruber remarked he believes all of the Commission members should be of the understanding they represent the entire County not just the municipality they live in. Chairman Forrest agreed. He said if the #1 project on the list is North of the Broad, #2 shouldn't automatically go to South of the Broad. Chairman Forrest wants the final list to represent the most needed projects in Beaufort County regardless of where the project is geographically.

Chairman Forrest moved on to the timeline the Commission is working with. He said he believes the Commission's work needs to be done by the beginning of June. Commissioner Gruber responded with the fact that the Commission, under the time constraints, will be meeting every Monday from now until June. Chairman Forrest said he doesn't see how the Commission can get around not meeting each Monday until June. Chairman Forrest is very concerned with the time constraints facing the Commission. Mr. Gruber said August 11<sup>th</sup> is the last Monday Council

would have for a third reading of the ballot question. This means the first meeting Council would need the language for its June 24<sup>th</sup> meeting. This allows Council to have 3 readings to adopt or reject the ordinance from the Commission.

Vice-Chairman Richardson suggested meeting dates of April 21 & April 28. Give staff 2 weeks and then meet again on May 12 & May 19. This would then give some leeway on more meetings at the end of May and beginning of June. Commissioner Graber asked if it would be possible to have the May 12 North of the Broad.

### **Discussion of Criteria for Presentations of Projects**

Vice-Chairman Richardson asked to next set the criteria for the presentations. Chairman Forrest asked if public comment should come next. Staff suggested waiting for public comments. Vice-Chairman Richardson started with his suggestions of criteria which were: any other source of money, economic impact including costs after the project is completed, job creation, county improvement as a whole verses a local project, enhancement of the quality of life. Chairman Forrest asked for members comments on Vice-Chairman Richardson's list.

### **What is a Capital Project?**

Chairman Forrest wants to make sure the Commission knows what the definition is of a capital project. Chairman Forrest described a capital project as one that is of high cost and large in size. Mr. Gruber took to the podium and said, according to South Carolina, a capital project to be an item that is \$50,000 in value or a useful in life in excess of five years. Chairman Forrest believes a capital project is a long term investment made in order to build upon, add or improve on capital intensive projects. A capital project is any undertaking which requires the use of notable amounts of capital both financial and labor to complete. Capital projects are often defined by their large scale and large cost relative to other investments requiring less planning and resources. Chairman Forrest said he hopes the Commission will be looking at a list that will benefit the county's quality of life. Commissioner Graber asked if Hwy 170 widening was a sales tax project. Staff said yes. Vice-Chairman Richardson mentioned a concern of his that he doesn't want to exclude any projects that may not cost as much but could still have a positive impact on the county as a whole. Chairman Forrest said that's a good part of being on the Commission. He doesn't want to rule anything out either but if all of the Commission members agree on what a capital project is, it would make steps moving forward easier. Chairman Forrest believes the high cost, high quality; high impact projects should be given higher priority. He doesn't want to exclude projects if they don't cost as much but he doesn't believe a \$10,000 project should be at the top of the list. Vice-Chairman Richardson said to be mindful of what SC defines as a capital project, what Chairman Forrest said and let the criteria dictate how high a project should go on the list. Commissioner Covert agreed with Vice-Chairman Richardson that a combination of the definitions and criteria is a great starting point for prioritizing the projects.

### **Motion Made to Accept Criteria and Definition of a Capital Project**

Vice-Chairman Richardson makes a motion to have the capital project definition of the state, Chairman Forrest's definition of a capital project and the criteria discussed to be the standard of what the Commission looks at when prioritizing the projects. Commissioner Graber reiterated Vice-Chairman Richardson's concern that the Commission shouldn't exclude a project if it doesn't cost much but that the Commission should focus on the bigger more expensive projects. Chairman Forrest hopes with the prioritizing of the government entities and the public lists, and a framework of what the Commission is looking for, the Commission has a great starting point when hearing the presentations. Vice-Chairman Richardson asked if everything just discussed was on legal ground. Mr. Kubic took to the podium to make a few suggestions. He said when the penny sales tax was passed in 2006, it had two sunset provisions. Either to run for 5 years or until \$152M was collected. What came first was the collection of the \$152M. Mr. Kubic said what's important about that is the county averaged receiving \$30M a year for 5 years and in 2008 when the economy dropped, the county still never went under the estimate of collection. Mr. Kubic then told the Commission all of the collected products that will be presented are going to be available for the public to see through the county webpage. Commissioner Graber asked Mr. Kubic if the South Carolina definition of a capital project in regard to the \$50,000 threshold apply to the Commission. Mr. Gruber said the language that is contained in the Capital Project Sales Tax Act identifies 7 or 8 things that are rated as capital projects like roads, coliseums, beach re-nourishment, etc... but it does include 'may' in the definition so while those projects are listed as examples, a capital project isn't just limited to what is listed in the Act. Mr. Gruber continued to say while there is nowhere in the Act that gives a minimum of what a project must cost to be considered a capital project, the \$50,000 threshold is given as a guideline because most capital projects do cost more than \$50,000 or have a life expectancy of 5 years. He said there is no hard definition of that term within the Capital Project Sales Tax Act. Commissioner Graber then asked Mr. Kubic, with Mr. Kubic's experience does he believe most of the projects the Commission will see will be more than \$50,000. Mr. Gruber said yes, typically. Mr. Kubic wanted to reiterate what Commissioner Gruber said in that within the comprehensive plans that have already been submitted by the municipalities those typically are major capital improvements developed by the representatives of those communities and are usually very large projects. Mr. Kubic believes the Commission will see the very large projects early on from the government entities.

Vice-Chairman Richardson asked the Chairman if he could restate his motion which is to include the language the Commission agreed on for the criteria of each projects, the language of what a capital project is based on the Capital Project Sales Tax Act, what Chairman Forrest read earlier in the meeting and to include the public will be able to see projects on the website.

Commissioner Graber made a second to the motion. The Commission voted unanimously for the motion.

## **Public Comment**



Chairman Forrest announced the last part of the meeting is for Public Comment. The Chairman asked that all speaking to please address the Chairman, to keep the comments related to what they have heard in tonight's meeting and to have the comments no longer than 3 minutes.

Diane Moreno from Bluffton addressed the Commission and said that most of her comments are for County Council because she thought the full Council would be in session. Ms. Moreno said she has come to the meeting because of the proposed 1% tax increase. She said several years ago Council invited a company to set up shop and hire locals. Mr. Moreno said the company said they needed an expensive piece of equipment to begin and that Council voted to buy this piece of equipment for the company at the cost of \$85,000. She said the company got the equipment but the county never got the company. She said the taxpayers were on the hook for the cost and now she said she questions the spending habits of Council. Ms. Moreno would like to know where the money went. She asked, did the county get the money back because the money could then be used for projects. Ms. Moreno said Council has also spent money to buy land for walking trails, business parks, save the rivers. She said the County now owns \$150M in land. Chairman Forrest interrupted Ms. Moreno and apologized for doing so. He did ask that her comments be restricted to what she has seen and heard during tonight's meeting. He also agreed with Ms. Moreno in that the comments she is making should be given to County Council. Ms. Moreno said that's why she prefaced her comments that they were intended for Council. She went on to say that she did like how the Commission made the decision tonight that the Commission will look at projects as a needs basis not a wants basis. She said she hopes the Commission will very carefully look at the projects and just not do what Council wants the Commission to do. She hopes the Commission will consider looking at the fact that most people in the County do not want the sales tax and wants the Commission to carefully look at all documentation for the projects that are presented.

Ann Ubelis from Lady's Island addressed Commission and thanked them for allowing her to speak. She said she is not in favor of additional tax. She said we recently had a raise in our millage rate and how and at this point we do not know how much tax revenue is coming in as a result of the millage rate. She says since we don't know the tax revenue from the millage rate, some of the money could be used for capital projects. She finds the 1% sales tax especially troubling because there was recently an ordinance amended in 2012-2013 where the ordinance 93-20 of the road maintenance fee that is on every vehicle registration. She says that money is supposed to be used for purchase, condemnation, construction, ownership, maintenance and repairs of all county roads and bridges. It is also amended to maximize the potential federal grant funding. It is necessary to amend the ordinance to expand funding for the county and state owned roads. Ms. Ubelis is asking the Commission to take this fee into consideration when looking at projects. She says there are approximately 217,000 eligible drivers in Beaufort County as of the 2010 census. Of those 30% are from 1 car households, 60% are from 2 or more car households. She said when you consider \$10 from each of these car owners, which she says doesn't include trucks and other vehicles. She says that is a large amount of money going towards capital projects and does not want to see the 1% sales tax fail to take this into consideration. She asks

the Commission to take into consideration whether or not replacing a building would be less expensive than replacing one. Would it be better to sell a county building rather than rent it? If the Commission does this, consider it ending early if the projects come in early ahead of time and under budget. Also consider penalizing the contractor if the project goes over budget and takes longer to complete and putting that money back into the taxpayer base. Ms. Ubelis would also like the Commission to make sure the money gathered by the 1% sales tax to be put in an account that can't be touched by anything other than the projects on the final list and that once the project list is submitted and if the referendum is approved that no other projects can be added to the list after the vote.

### **Adjournment**

Chairman Forrest closed the public comment portion of the meeting. He asked for a motion to adjourn the meeting. A second was given and everyone voted to unanimously adjourn.