

STATE OF SOUTH CAROLINA)
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COUNTY OF NEWBERRY)

**RESOLUTION NO. 08-09
CREATING A COMMISSION
TO SELECT CAPITAL PROJECTS TO BE
FUNDED BY PROPOSED LOCAL SALES TAX**

WHEREAS, pursuant to §§ 4-10-300 *et seq.*, Code of Laws of South Carolina, 1976, as amended (the "CPST Act"), the voters of Newberry County (the "County") approved by referendum in 1998 the imposition of a 1% local sales tax (the "CPST") to fund certain capital projects benefitting the County and communities located across the County; and

WHEREAS, by virtue of a second referendum held in 2004, the CPST was renewed, again to fund capital projects in communities located across the County; and

WHEREAS, the projects approved in the 2004 referendum are nearing completion; and

WHEREAS, Newberry County Council believes that voters should be given a chance to vote on the funding of new capital projects through an extension of the CPST for an additional period of time; and

WHEREAS, Newberry County Council is authorized by the CPST Act to create by resolution a commission, composed of six members, to investigate and propose capital projects of the type specified in §4-10-330, Code of Laws of South Carolina, 1976, as amended, and to formulate a referendum ballot question to be presented to the voters of Newberry County at the general election to be held in November, 2010;

THEREFORE, be it resolved by Newberry County Council (the "Council") as follows:

1. There is hereby created pursuant to §4-10-320 of the CPST Act a commission to exercise all powers granted to commissions under the CPST Act (the "Commission").
2. The Council shall, by September 30, 2009, appoint three members to the Commission.

3. Three additional members of the Commission must be appointed in accordance with §4-10-320 of the CPST Act, to wit:

(a) The total population of all incorporated municipalities within the County, as determined by the most recent United States census, must be divided by three, the result being an apportionate average.

(b) The respective population of each municipality in the County must be divided by the apportionate average to determine an appointive index.

(c) Each municipality in the County appoints a number of members to the Commission equal to the whole number indicated by their appointive index. However, no single municipality may appoint more than two members to the Commission; unless there is only one municipality in the County, and in such case the municipality is entitled to three appointments to the Commission.

(d) When less than three members are selected to the Commission in accordance with the prescribed appointive index method, the remaining member or members must be selected in a joint meeting of the Commission appointees of the municipalities in the County. The member or members must be chosen from among the residents of the municipalities in the County that before this time have not provided a representative for the Commission.

(e) In the event no municipality is entitled to appoint a member to the Commission pursuant to the formula in subitem (c) of this subsection, the municipality with the highest appointive index must be deemed to have an appointive index of one.

(f) If within the thirty-day period following the adoption of a resolution to create the Commission, one or more of the municipalities fails or refuses to appoint their proportionate number of members to the Commission, the County governing body must appoint an additional number of members equal to the number that any such municipality is entitled to appoint. A vacancy on the Commission must be filled in the manner of the original appointment.

As shown at Exhibit A attached hereto, and based upon the foregoing methodology, the City of Newberry is entitled to appoint two members to the Commission. Those two members of the Commission are authorized to select the sixth and final member of the Commission. The final member of the Commission must be a resident of a municipality located in the County other than the City of Newberry.

A certified copy of this Resolution shall be delivered to the City of Newberry upon adoption. By adopting this Resolution, the Council requests the City of Newberry to appoint two members of the Commission and to notify the Council of such appointments.

4. The Commission created pursuant to the CPST Act shall consider proposals for funding capital projects within the County area. The Commission shall then formulate the referendum question that is to appear on the ballot, in accordance with §4-10-330(D) of the CPST Act.

5. The Commission shall consider funding only the following types of projects:

(a) highways, roads, streets, bridges, and public parking garages and related facilities;

(b) courthouses, administration buildings, civic centers, hospitals, emergency medical facilities, police stations, fire stations, jails, correctional facilities, detention facilities, libraries, coliseums, educational facilities under the direction of an area commission for technical education, or any combination of these projects;

(c) cultural, recreational, or historic facilities, or any combination of these facilities;

(d) water, sewer, or water and sewer projects;

(e) flood control projects and storm water management facilities;

(f) beach access and beach renourishment;

(g) jointly operated projects of the county, a municipality, special purpose district, and school district, or any combination of those entities, for the projects delineated in subitems (a) through (f) of this item; or

(h) any combination of the projects described in subitems (a) through (g) of this item.

6. The Commission shall propose the date of termination of the tax, which must terminate on an April 30 in an odd-numbered year, not to exceed seven years from the date of imposition.

7. The Commission shall solicit proposals for proposed capital projects from the Council and from each of the municipalities and special purpose districts within the County, and from community groups, businesses, utilities and private citizens, and the like, and is authorized and encouraged to advertise and hold public hearings to discuss such projects.

8. In order to provide guidance to the Commission, the Council has attached as Exhibit B to this resolution a suggested timetable for the work of the Commission. County administrative personnel will assist in arranging the necessary advertising, in providing legal and clerical assistance, and in making available space in County buildings for public hearings and Commission meetings.

9. The Commission is requested to accept for funding only those capital projects for which reliable estimates of cost have been provided. Such estimates should include *all* costs to be funded from the CPST, including, but not limited to, architectural and engineering fees, construction management fees, cost of any real property necessary for the capital project, legal fees, and should include a contingency for cost overruns and inflation. Similarly, the Commission is requested to accept for funding only those capital projects the construction of which is reasonably expected to commence within nine months after funds are made available therefor.

10. The Commission shall make its recommendations, including the form of the ballot question to be presented to the voters in accordance with Section 4-10-330(D) of the CPST Act, to the Council no later than June 15, 2010.

AND IT IS SO RESOLVED THIS 5th DAY OF AUGUST, 2009 AT NEWBERRY, S.C.

NEWBERRY COUNTY COUNCIL

BY: Henry H. Livingston III
Chairman, Newberry County Council

Attest:

Laurel M. Lewis
Clerk to Council, Newberry County

APPOINTATIVE INDEX--NEWBERRY COUNTY CAPITAL PROJECT SALES TAX

<u>Municipality</u>	<u>Population @ 2000</u>	<u>Appointive Index</u>
Newberry	10,580.00	2.29
Whitmire	1,512.00	0.33
Prosperity	1,047.00	0.23
Little Mountain	255.00	0.06
Silverstreet	216.00	0.05
Pomaria	177.00	0.04
Peak	<u>61.00</u>	<u>0.01</u>
Total	13,848.00	
Apportionate Average	4,616.00	

SUGGESTED SCHEDULE OF EVENTS

NEWBERRY COUNTY CAPITAL PROJECT SALES TAX COMMISSION

<u>Date</u>	<u>Event</u>
August 5, 2009	County Council adopts resolution to create Capital Project Sales Tax Commission.
NLT September 4, 2009	Deadline for appointment of Commission members by City of Newberry. ¹
September 30, 2009	Deadline for appointment of remaining Commission members.
October, 2009	Commission meets, establishes meeting calendar and standards for project submissions.
NLT October 29, 2009	Commission releases calendar and standards.
March 15, 2010	Proposals due in final form.
March 15, 2010 – April 30, 2010	Commission meets and discusses projects to be included on ballot and allowable costs.
NLT May 12, 2010	Commission adopts and submits to County Council the form of referendum question to appear on the ballot.

¹ In accordance with Section 4-10-320, S.C. Code of Laws, 1976, the City of Newberry may appoint two members to the Commission. Those two members, both of whom must reside in the City of Newberry, are entitled to appoint a third municipal member; the third member must be a resident of Little Mountain, Peak, Pomaria, Prosperity, Silverstreet or Whitmire. If the City of Newberry fails to appoint its members within 30 days of the adoption of the Capital Project Sales Tax Resolution, those members will be appointed by the County Council.