

STATE OF SOUTH CAROLINA)
COUNTY OF BARNWELL

FILED FOR RECORD

2017 MAY 11 PM 5:11
ORDINANCE NO. 2017-5-344-O

ORDINANCE RESTATING, SUPERSEDING AND REPLACING ORDINANCE NO. 2017-3-342-O TO MODIFY THE DUTIES AND POWERS OF THE BARNWELL COUNTY ECONOMIC DEVELOPMENT COMMISSION AND TO DISSOLVE THE BARNWELL COUNTY ECONOMIC DEVELOPMENT CORPORATION

Whereas, Barnwell County Council established the Barnwell County Economic Development Commission (the "Commission") by Ordinance No. 1987-30 with duties that in part authorized it to hold land on behalf of and for the benefit of Barnwell County; and

Whereas, the State of South Carolina has allocated to Barnwell County certain funds being received in connection with the regional nuclear waste facility in Barnwell County historically operated by Chem-Nuclear Systems, Inc. (those funds being referred to herein as the "Surcharges"); and

Whereas, in Ordinance No. 1989-37, Barnwell County Council determined that the Surcharges would be directed from its general fund for use for economic development and placed in an economic development corporation and provided specifically in Section 2 in pertinent part that, "The Corporation shall be empowered to use the Surcharges as long as members of the Council or County administration are the sole members of the governing body of the Corporation. If the membership of the Corporation should not consist solely of the members of the Council or County Administration all funds representing the Surcharges and properties acquired with the Surcharges shall be transferred to the County"; and

Whereas, Barnwell County created the Barnwell County Economic Development Corporation (the "Corporation") by Ordinance No 1989-38 in part to receive the Surcharges and hold property including real estate for and on behalf of Barnwell County; and

Whereas, various amendments to the make up of the Board for both the Commission and Corporation have been passed since their inception which shall also be modified or repealed by this Ordinance; and

Whereas, Barnwell County Council passed Ordinance No. 2016-329-AO setting aside a portion of monies derived from various new economic development projects to be used for future economic development purposes; and

Whereas, Barnwell County passed Ordinance No. 2016-334-O which required all agencies of the County place their monies with the County Treasurer to be held in segregated accounts on behalf of that agency and imposed spending limits upon them to better secure monies belonging to all of the citizens of Barnwell County, and

Whereas, Barnwell County Council recently discovered the full implications of

quasi-independent non-profit corporations as demonstrated in the case of *Barnwell County et al., versus Hiers*, Case No. 2014-CP-06-084, and desires that all assets of the County be under control of the County, and

Whereas, Barnwell County Council has a duty to safeguard the properties and monies belonging to all tax payers of the County;

IT IS HEREBY ORDAINED THAT:

1. This Ordinance restates, supersedes, and replaces Ordinance No. 2017-3-342-0 in its entirety.
2. The Commission as appointed pursuant to Ordinance No. 2014-9-306 shall continue to recommend to the County Council and the municipalities regarding economic development matters, and coordinating economic development within the three municipalities.
3. Any portion of any prior ordinance referencing the power of the Commission to hold property on behalf of Barnwell County is hereby rendered null and void, as are any references to the hiring of employees.
4. Any portion of any prior ordinance referencing the power of the Corporation to hold property, on behalf of Barnwell County is hereby rendered null and void, as are any references to the hiring of employees.
5. Barnwell County, as the creator of the Commission and the Corporation, as their source of funding through the allocation of the Surcharges, and as the beneficiary on whose behalf each of them holds all its assets, hereby requests that each of the Commission and the Corporation immediately execute deeds conveying all real property held by it to Barnwell County. In the event that either or both is unwilling to do so, the County Attorney is directed to explore and implement all other options for such conveyance; and all other officers of the County and the County Council are authorized to execute any such documents as the County Attorney may determine to be useful or necessary for such conveyance. The deed of conveyance to the County of any property located within a municipality may include a restriction that that property may not be later conveyed to an economic development organization that covers more than Barnwell County without the consent of the municipality's governing body.
6. County Council hereby approves the dissolution of Corporation, and directs the County Attorney to seek the concurrence of the Board of that Corporation. Upon obtaining such concurrence, the County Attorney is authorized to file articles of dissolution with the Secretary of State for that Corporation. If concurrence is not obtained, the County Attorney is directed to explore and implement all other options for the dissolution of the Corporation;

and all other officers of the County and the County Council are authorized to execute any such documents as the County Attorney may determine to be useful or necessary for such dissolution.

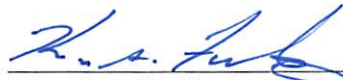
7. The economic development monies being set aside pursuant to Ordinance No. 2016-329-AO shall continue to be set aside for economic development purposes, along with monies already in hand for grant matching to be used exclusively for economic development in accordance with the direction of Barnwell County Council.

This ordinance shall take effect upon three readings and a majority vote by a quorum of Barnwell County Council.


Charles Lowell Jowers Sr., Chairman

First Reading 4/11/17
Second Reading 4/19/17
Third Reading 5/9/17

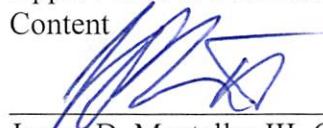
I attest:



Kim Futrell, Clerk to Council



Approved as to Form and
Content


James D. Mosteller III, County Attorney