

TOWN OF MOUNT PLEASANT, SOUTH CAROLINA
FINANCE COMMITTEE
Monday, November 5, 2018
Municipal Complex, Committee Meeting Room, 3rd Floor
100 Ann Edwards Lane, Mount Pleasant, SC 29464

MINUTES

PRESENT: Gary Santos, Acting Chair; Joe Bustos, Kathy Landing and Gary Santos

ABSENT: Tom O'Rourke, Chair

STAFF PRESENT: Eric DeMoura, Town Administrator; Marcy Cotov, Chief Financial Officer; Melinda Turner, Business License Official; David Pagliarini, Town Attorney; Claude Tackett, II, Attorney

ALSO PRESENT: FirstString Research, Inc.; Stefanie Cuebas, Director of Operations; Christina Grek, Director of Research; Steven Speer, Board Member; Dr. Carl Atkinson, Medical University South Carolina (MUSC); Grant Carwile, Board Member

Mr. Santos called the meeting to order at 1:55 p.m.

1. Approval of Minutes from the October 1, 2018 meeting

Ms. Landing moved for approval; seconded by Mr. Bustos. All present voted in favor.

2. Public Comments

[None]

3. Appeal hearing of Business License tax

Mr. Pagliarini (Town Attorney) explained that this is an Appeal of Business License that staff will be presenting. He stated that as

Corporation Counsel for the Town, his obligation is to Town and Staff, and cannot advise the Committee. For that reason, Mr. Claude Tackett has been brought in to explain the law or answer any legal questions. This morning the Town received a slide presentation from the appellant. The Committee can allow the appellant to present the slide presentation if it so chooses. The Chair has been provided the procedural rules that should be read into the record.

Mr. Santos read the Business License Appeal Procedure as follows:

A file comprising the material related to this Business License appeal has been furnished to each member of the committee and the appellant. Certain financial information contained in this file and referenced during this hearing will be treated as sensitive and confidential.

The Town will not refer to specific information or figures detailed in Business License applications due to state legislation governing the treatment of such information.

1. The hearing procedure shall be as follows:
 - (a) The parties and/or their representatives will introduce themselves for the record.
 - (b) The appellant or its representative will deliver a short, concise statement of the appellant's position in no longer than ten minutes.
 - (c) Ms. Turner, the Town's representative will deliver a short, concise statement of the Town's position in no longer than ten minutes.

- (d) The appellant or their representative may present the appellant's position by calling up to three witnesses and or introduce supportive evidence during the up to thirty minutes allotted to the appellant's case.
- (e) The Town representative may cross-examine any witness or rebut any evidence.
- (f) The members of the Committee may examine any witness or review any evidence.
- (g) Ms. Turner, the Town representative will present the Town's position by calling up to three witnesses and or presenting any supportive evidence during the thirty minutes allotted to the Town's case.
- (h) The appellant may cross-examine any witnesses or rebut any evidence offered by the Town.
- (i) The members of the Committee may examine any witness or review any evidence.
- (j) The appellant may have up to five minutes to make a closing argument.
- (k) The Town representative may have up to five minutes to make a closing argument.
- (l) The Chairman of the Committee will close the proceedings and the Committee may adjourn to an executive session to receive legal advice should they so request.
- (m) Upon returning to regular session, the Committee may reach a decision at that time. However, the Committee has 20 days in

which to render their decision which will be placed in writing by the Business License Official.

(n) The decision of the Finance Committee shall be final, unless the appeal process is continued through the Circuit Court of appropriate jurisdiction.

2. The hearing will not be conducted according to the rules of evidence relating to examination of witnesses or the presentation of evidence. Any relevant evidence shall be admissible, including hearsay, if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs.

3. Evidence determined to be relevant by the Chairman of the Committee, regardless of its admissibility in a court of law, shall not be excluded.

4. Documentary evidence may be received in the form of copies or excerpts.

5. Notice may be taken of judicially cognizable facts or of generally recognized technical or scientific facts within the Committee's specialized knowledge. Parties shall be notified either before or during the hearing of the material noticed and afforded an opportunity to contest. The committee's experiences, competence, and specialized knowledge shall be utilized in evaluation of the evidence.

6. Each party is entitled to submit proposed findings, a memorandum of points and authorities and any additional information that they feel appropriate to the Committee.

Mr. Santos asked for introductions for the record.

Ms. Stefanie Cuebas, Director of Operations at FirstString Research; Christina Grek, Director of Translational Research at FirstString, Dr. Carl Atkinson, MUSC employee and Associate Professor in Immunology, Grant Carwile, Board Member of FirstString Research, and resident of Mt. Pleasant and early investor since 2007; Steve Speer, Board Member and founding investor

Melinda Turner, Business License Official for Town of Mt. Pleasant, and Marcy Cotov, CFO for Town of Mt. Pleasant, David Pagliarini, Legal Counsel for the Town of Mount Pleasant, Claude Tackett representing the Committee

Mr. Santos stated the appellant could begin.

Ms. Cuebas read the following which describes their business, and a summary of their appeal.

(From Business License Appeal Application) BRIEF SUMMATION OF REASON FOR APPEAL:

FirstString Research is a biotechnology company headquartered in Mount Pleasant, SC, focused on bringing to market products to treat diseases with unmet medical needs such as Cutaneous Radiation Injury (CRI), Diabetic Foot Ulcers, Venous Leg Ulcers, and Cutaneous Scarring. FirstString has developed a first-in-class product, Granexin gel, that has demonstrated safety and efficacy in multiple FDA regulated non-clinical and clinical studies. We are currently advancing Granexin gel toward FDA's New Drug Application (NDA) filing for Cutaneous Radiation Injury, followed by label expansion in Diabetic Foot Ulcers, Venous Leg Ulcers, and Cutaneous Scarring.

As part of our drug development efforts, we receive grants from Department of Defense and National Institutes of Health under their programs to foster cutting edge research. A vast majority of FirstString's 'gross receipts' are funds from research grants awarded to FirstString from these federal agencies (NIH and DOD). These funds are either received as reimbursement for research activities already expensed, or are direct pre-budgeted pass-throughs that are sent to our collaborating institutions/organizations that conduct research on our behalf, such as the Medical University of South Carolina or other qualified contractors. We do not believe these funds should be considered taxable income under the Town of Mount Pleasant business license ordinance because either the funds have already been spent by the time they are received, or are specifically budgeted for collaborating institutions or contract research organizations within the framework of the federal grant award. These federal grant funds to a company like FirstString - developing high risk and cutting edge new drugs - should not be considered true revenue, as would be the case for restaurants, retail stores, or clinical research businesses that are client-based or service businesses.

FirstString is one of few, if not the only, biotechnology/biopharmaceutical companies focused on drug development in Mount Pleasant, and we would like to discuss with the Council the unique nature of our business and why excluding federal grant funds from the definition of 'gross receipts' would incentivize FirstString to stay and grow in Mount Pleasant and indeed align our interests and aspirations with that of the Town of Mount Pleasant.

FirstString has the potential to be a true home-grown success story, and has managed to attract substantial outside investment capital into Mount Pleasant (>\$28M) to date. With the help of the Council, we hope to continue to grow here and put Mount Pleasant and South Carolina on the map as a destination for high value biotechnology companies.

Mr. Santos granted Ms. Turner the floor.

Ms. Turner stated that FirstString Research is appealing staff's application of the Mount Pleasant Business License Ordinance. The Application for appeal was dated and received October 1, 2018. FirstString Research conducts research and development in biotechnology. The business is located at 300 West Coleman Boulevard, Suite 203 in Mount Pleasant. Ms. Turner then read the following summary:

- On January 23, 2018, Melody Dangerfield (Assistant Business License Official) sent a letter notifying FirstString Research, Inc. of a business license audit scheduled for February 9, 2018, for the license period 2015/2016, 2016/2017, and 2017/2018 to be conducted at Town Hall.
- Ms. Dangerfield sent a follow up email on February 6, 2018, to confirm receipt of the audit notification letter and the scheduled audit. When an unsuccessful follow up telephone message was left on May 7, 2018, the account was flagged to require documentation prior to issuing the 2018/2019 business license.
- On July 23, 2018, Ms. Dangerfield sent an email acknowledging receipt of the business license renewal payment for 2018/2019 and explaining that the business license would not be issued until they responded to the audit letter. The audit was rescheduled for August 9, 2018, at 3:00 pm and again to 11:00 am as requested by Stefanie Cuebas, Director of Operations.
- Ms. Dangerfield conducted the audit on August 9, 2018, and results were sent to the business on August 15.
- The Internal Revenue Service's definition provides that grant funds are included in gross income. After the conversation, audited financial statements were provided and additional emails were exchanged
- On September 5, 2018, Mr. Edwards and I talked to Lisa Beddin, with Greene Finney, LLP, the Town's external audit firm. Ms. Beddin agreed with staff's position that Ms. Dangerfield, Jonathan Edwards (Deputy Chief Financial Officer) Lauren Sims, (Community and Government Affairs Chief), and I met with Dr. Ghatnekar and Stefanie Cuebas to discuss the audit results on August 28, 2018. Dr. Ghatnekar explained that the majority of the income declared on the business tax

returns is from grant funds awarded by the U.S. Department of Health and Human Services together with the Department of Defense. Dr. Ghatnekar provided contact information for his accountant, Collin Hill, with Cherry Bekaert, LLP located in Raleigh, N.C..

- On August 28, 2018, Mr. Edwards and I talked with Mr. Hill. We confirmed that grant proceeds are gross income, according to both the Internal Revenue Code and the Mount Pleasant Business License Ordinance. She also pointed out that the entity is a “business” as defined in the Town Ordinance, Section 2.
- On September 7, 2018, staff corresponded with Dr. Ghatnekar and provided the amounts due the Town.
- Follow up emails were exchanged and a meeting that included Marcy Cotov (Chief Financial Officer) was scheduled for September 19, 2018. During this meeting Dr. Ghatnekar was accompanied by Jim McNab, Chairman of the Board of FirstString Research, Inc., and they explained their position that the business is unique to Mount Pleasant. They also said that the grants stipulate how funds will be spent for clinical trials, which are partly conducted by the Medical University of South Carolina and that paying taxes is not included as part of the grants. As such, they are requesting special consideration in the application of the business license ordinance. Ms. Cotov explained that the Town also deals with large federal grants and that various expenses are allowable. She further stated that staff is tasked with administering the Ordinance fairly and equitably to all businesses operating in the Town. We are unable to identify ordinance language to treat FirstString Research, Inc., differently. We discussed the Economic Development Incentive Program and provided the Ordinance.
- During the meeting we also discussed that pursuant to SC Code Section 5-7-30, municipalities are required to perform business license tax calculations on gross income. A business license tax is not a

property tax, income tax, or sales tax. According to the Municipal Association of South Carolina (MASC) Business License Handbook, “it is a method of requiring a business or occupation to contribute its share in support of the government.” The MASC handbook further explains that business

licensing is an excise tax for the privilege of doing business, and the value of the privilege extended is measured by the business’s gross receipts.

- On September 20, 2018, payment was made for license years 2015/2016, 2016/2017, 2017/2018, and 2018/2019 under protest.
- On October 1, the business license appeal application was filed.

Mr. Santos thanked Ms. Turner and asked the appellant to call their three witnesses.

Ms. Cuebas stated that they did include a presentation, but for the purposes of brevity and focus, she would like the Town to look at the presentation on their own time. She wanted to highlight the layout of their relationship with how grant funds are received and used. For that purpose, they brought Dr. Atkinson to outline the passthrough and how that plays out.

Dr. Atkinson stated that he was asked to provide context of how grants are applied for and how money is distributed, to show that FirstString is a flow-through organization. The grants that are written together are to the National Institute of Health (NIH) or the Department of Defense (DOD). How they are constructed is that they have a research idea to test their novel product. They are ahead on certain disease areas and they are still looking into new areas. When they look for a new grant, they write a research grant to the National Institute of Health or DOD. A component within that is working at how much the research is going to cost. The research is usually done at laboratories at MUSC and they write in the science, idea, and budget for the test. When the grant is sent to those institutions, they are reviewed by a panel of experts and part of the process is the budget itself. If the

award is made, the money comes back to FirstString and they pass the dollar amount they ask for within that grant, directly to MUSC or other institutions. They have no control over the amount that is asked for or awarded. It flows directly to MUSC. It is not an income per se, it is directly floated to a different institution. MUSC has \$276 million they requested in NIH money in the last year alone. So it is an ideas institute greenhouse. More than 50% of the faculty at MUSC work and live in this Town. To be able to have local communities or local infrastructure of businesses would be very important for us.

Mr. Santos asked if the Town would like to cross-examine the witnesses.

Ms. Turner stated she had no questions.

Mr. Santos stated that members of the Committee may examine the witnesses.

Mr. Bustos stated that the basis of the Appeal is that they know they must pay a Business License fee, but because they are unique and get grants; FirstString believes those monies should not be included in gross receipts.

Ms. Cuebas responded that due to the type of money that is coming in that are Federal grant funds, they do not believe those should be part of the definition of gross receipts under their Ordinance. They are either passed-through cost that come in and give directly to institutions like MUSC, and other external for-profit contractors that do the research on their behalf, or the funds are reimbursed for research activities that have already been expensed. These funds are regulated by the Federal agencies that award them.

Mr. Bustos responded that on the Town's side, the IRS says that those funds specifically are to be included.

Ms. Turner responded in the affirmative.

Ms. Landing stated that if MUSC has a project they are researching, they apply to NIH, and when the money flows through to you, directly to MUSC, it is for that project and you do not feel that is revenue that

you generated. You feel that as a pass-through you have facilitated the process.

Ms. Cuebas stated that FirstString does not make any money. They do not have a commercial product. They do not make any true revenue or profit like a client-based or service-based business.

Ms. Landing asked if it was possible to distinguish between different types of Federal grants. She stated that businesses apply for grants and that is how they run their businesses.

Ms. Cotov explained that when staff perform a business license audit, staff compare their reported gross receipts to their IRS schedules. Unless it was somehow delineated on their IRS schedule, staff would have to change our Ordinance and look at different components. Currently, it is all considered to be gross income.

Ms. Landing stated that it gets tricky because any business that is a start-up is potentially not going to have any profit for a while. By that definition alone, we could not say that means you are exempt from business taxes on this money. Ms. Landing asked if anyone explained the Economic Development Incentive program to FirstString.

Ms. Cuebas confirmed they were provided a copy of that the Ordinance.

Ms. Landing stated that she has recently been appointed Economic Development Chair and it may be something to talk about later. She is interested in bringing in businesses that would not be here and does not have to be in Mount Pleasant. Hopefully, FirstString gets to a place where they discover something through the researchers, and then they are selling it, and they are happily here in Mount Pleasant, and paying much higher business taxes. The idea behind that is that Economic Development is to help you to choose to stay here and grow your business here.

Ms. Cuebas stated they want to encourage future companies to want to come to Mount Pleasant, and without having the appropriate regulations in place that encourages them to do so, it is only going to

hurt things in the long run. They are not trying to set a precedent for FirstString, but for stimulating the economy for future companies, and getting people coming to MUSC interested in staying in Mount Pleasant as successful businesses.

Ms. Landing stated that biotech is one of the identified areas not only with the Charleston Chamber of Commerce, but with our Economic Development team. Prior to this happening, maybe that discussion should have been had and in the future will. It sounds like we are trying to change a law if we come in today to say the Town will make an exception. The Town is not able to change the IRS Code.

Mr. Santos asked FirstString when grant money is received is it put in the bank until a decision is made to pass it through.

Ms. Cuebas stated they draw down the funds from an account that is held by the Federal agency. It is drawn out when expenses come up to pass-through to the collaborating institutions.

Ms. Landing asked if they were familiar with other companies that have been in a similar situation who were successful in getting an exemption.

Ms. Grek stated they have investigated research at Triangle Park and Silicone Valley to look for a precedence, but Mount Pleasant is unique in how they tax. There is no categorization for the biotech company in Mount Pleasant or relevant in these other areas.

Ms. Cuebas stated that North Carolina does not have a Business License tax per se, they have something that is called a Business Privilege tax, and biotechnology companies are not lumped into that category. It is typically specified for unique professions like accountants, lawyers, and things of that nature.

Grant Carwile stated, that as an investor in the company, not having gotten a single dime back since 2007, he wants nothing more than to be the billion-dollar company that they can be, once they get the drug approval. They hope in the next couple years they get their first label. Then they can generate a tremendous amount of income, not only for

the investors but for the Town. They understand that the law is written as it is written and understand that the IRS has categorized gross revenue to include grants. They cannot change that, nor can the Committee. If it is not possible to find an exception in the Town's Ordinances, can they carve out some portion of the grant revenue that has been a pass-through and not gone to pay the light bills or the salaries, or the rent. They respectfully request that the Town of Mount Pleasant consider developing a classification for companies like this that taxes grant income differently in the Ordinance. They are currently classified as Category 7. It happens to be the highest one of the business class categories, but they have looked through those definitions and do not find that they fit in there because they do not provide a service or a product, or third-party research. If it is not possible to find an exception or exemption for some of the grant revenue for business tax purposes, or for gross receipt purposes, then is it possible to create a new category that companies like FirstString and others that are spun out of MUSC that we can fit in that category and have a more favorable environment for the development of new drugs.

Ms. Landing stated that there is a categorization of Economic Development where, if a business is bringing outside jobs to Mount Pleasant, and not recirculating things that we would already normally have like restaurants, and potentially bringing revenue from the Town that would be from outside, there is a category available already.

Mr. DeMoura responded that we do not have a mechanism under our current Ordinances that allow for us to fix this situation. FirstString suspected that might be the case, but they are here to decide if there is some other way going forward that recognizes the contribution that they make to the community. Mr. DeMoura stated that they have already started looking at classification. Their commitment leaving here today would be to find options for Council to consider going forward. Whether it is through our Business License as currently structured, or Economic Development reimbursements that we can

offer and some other things that may help to further nurture what you are trying to do and express our appreciation.

Mr. Bustos stated that we do have a system of trying to keep businesses in Mount Pleasant. One of the things we could consider is the amount of the Business License tax. That would be on an individual basis and must be considered as an incentive. It may not directly address grants. It would address how much you pay for a Business License tax. Mr. Bustos suggested they go to our business development people and ask about it. If something is unique in bringing in a growing business, we cannot lessen impact fees and we cannot lessen taxes. We can use this as an incentive to offset the grants.

Mr. Santos asked for any cross-examination or rebuttal.

Ms. Turner summarized the Town's position, that the Town of Mount Pleasant Business License Ordinance together with the Internal Revenue Code uses very similar language for definition of gross income. The Federal Code says gross income means all income from whatever source derived. Exhibit I in your package has a full definition of gross income for Business License purposes that is in our Ordinance and we have also identified three South Carolina court cases that address specific business licensing issues, and this goes back to the fact that we must treat all businesses the same. We are not able to carve out anything special for any particular business. We have the code in place. This was proven in *Eli Witt Company vs. City of West Columbia*, in the *Town of Hilton Head Island vs. Kigre, Inc* and in *Olds vs. The City of Goose Creek*. In these cases they further support the position that Town staff has used the appropriate basis for calculating the Business License taxes for FirstString Research Inc.

Mr. Santos stated that members of the Committee may examine any witnesses or review any evidence. [None]

Mr. Santos stated that the appellant may have up to 5 minutes to make a closing argument.

Mr. Carwile stated that he appreciated the time of the Committee and the process. He also appreciates the way the law is written and that there is very little flexibility for the Town, and they understand the Town's position. They would like to restate the uniqueness of FirstString and thinks there is a pathway going forward that might be different for finding a new classification for companies like theirs.

Mr. Santos stated that the Town Representative may make a closing statement.

Mr. Pagliarini stated that the sole question is whether the Federal grant funds are considered gross income. That has been an issue that has been clarified and there is no question about it. The Ordinance does not make a distinction about restricted or unrestricted Grant funds, and there might be some merit if a grant is restricted where it cannot be used for administrative purposes. That might be something for the Town to consider whether that is functional down the line, but not today. Today we have an Ordinance met the requirements that gross income is what it is considered. That is what our staff reviews and that question has been answered.

Mr. Santos stated that the Chairman of the Committee will close the proceedings and the Committee may adjourn to Executive session to receive legal advice should they so request. Mr. Santos asked the Committee if they would like to go to Executive Session.

All Committee members responded in the negative.

Mr. Santos closed the proceedings, as stipulated. He stated that they have 20 days in which to render their decision, which may be placed in writing by the Business License Official. The decision for the Finance Committee shall be final unless the appeal process is continued through the Circuit Court of appropriate jurisdiction.

Ms. Landing made a motion to close the meeting and take 20 days to render a decision. Mr. Bustos seconded. All present voted in the affirmative.

Mr. Bustos suggested establishing a date and time. He suggested

meeting before Town Council meeting on November 13, 2018 and have a vote from the Committee.

4. Executive session to receive legal advice on any issue related to the appellate hearing, if needed

[Not needed]

5. Post Executive Session

Committee may act on any item listed on an executive session agenda or discussed in an executive session during a properly noticed meeting

[N/A]

6. Discussion of Business License and Economic Development

Mr. Santos asked if we needed further discussion on this item.

Ms. Landing stated that there was a discussion on this comparing our Business License tax with other communities in the surrounding area, and that this is our second largest revenue source to the Town. In comparison to Goose Creek, Charleston County, Summerville, City of Charleston, Dorchester County and North Charleston, we are right in the middle on what we charge on Business License taxes. Economic Development can be different because we can negotiate contracts when it is appropriate and when it brings in money from outside the Town.

7. Approval of 2019 General Obligation Bonds Ordinance

Mr. Santos recognized that Mr. Trouche, the Town's Bond Attorney, was present with his law partner Jeremy Cook.

7. APPROVAL OF 2019 GENERAL OBLIGATION BONDS ORDINANCE

To provide for the issuance and sale of 20-year 2019 General Obligation Bonds

- New public services operation center facilities at the Town's 6 Mile and Lieben Road complexes - \$30 million
- Replacement and expansion of the Town's Fire Station #4 facility - \$5 million
- Town Council
 - November meeting 1st Reading
 - December meeting 2nd Reading
- Rating received by January
- Closing February 5, 2019

Ms. Cotov stated that approved in the Capital Improvements Plan and adopted in the fiscal year 2018 Budget is the issuance and sale of \$35 million in 20-year General Obligation Bonds. \$30 million of these bonds will be used for the Public Service's Operation Center facilities on the Town's property at 6 Mile and Lieben Road. The other \$5 million will be used toward the replacement and expansion of Fire Station 4. Recommended approval of this Ordinance will send this to full Council for two readings. The Town's Preliminary Official Statement will be sent to the Rating Agencies in December with the Town's rating received early in January. The closing date is set for February 5th.

Mr. Bustos made a recommendation for full Council approval of the 2019 General Obligation Bonds Ordinance; Ms. Landing seconded. All present voted in favor.

8. Approval of Resolution to delegate settlement authority

8. APPROVAL OF RESOLUTION TO DELEGATE SETTLEMENT AUTHORITY

Delegated as follows:

- Department Manager under \$10,000
- Chief Financial Officer \$10,000 up to \$25,000
- Town Administrator \$25,000 up to \$100,000
- Town Council \$100,000 or more and non-monetary relief

Ms. Cotov stated that this Resolution formalizes the Town's authority to expend funds in conformance with the Town's Procurement Code for insurance claims below the Town's deductible.

Mr. Bustos made a motion for approval, Ms. Landing seconded. All present voted in favor.

9. Continued discussion of funding options for the Stormwater Improvement Program

9. STORMWATER IMPROVEMENT PROGRAM FUNDING

Stormwater Fees Background

- Revenue \$2.6 million
- Expenditures
 - Collection Fee to County (2% of revenues)
 - Debt Service
 - Snow Farm SRF \$554,000 (revenue to debt ratio 11.5% requirement)
 - Portion of lease/purchase Vector truck \$44,000 (last year)
 - Staffing
 - Compensation of supporting staff \$1.2 million
 - Operating expenditures \$65,000
 - Projects
 - Pipe repair and rehabilitation \$750,000 (half of annual \$1.5 million)
 - Asset Maintenance \$300,000
- Without any adjustments or adding any additional debt, the fund balance goes negative in 2031 and we are out of compliance with our Master Bond Ordinance's debt ratio in 2034

Ms. Cotov stated that at last month's Finance Committee they presented data on possible funding sources for the Town's Stormwater Improvement Program. The Program anticipates funding of a study, performing design work on some or all the study area and

then funding \$10 million in construction. The Town's Stormwater fees generate \$2.6 million in revenue. Two percent of this amount is paid to the County as a collection fee. The remainder of this revenue is expended in a couple of ways. The first is to pay for existing debt service and lease/purchase of equipment. \$554,000 is the annual amount of the State Revolving Fund or (SRF) for Snee Farm and \$44,000 is the last payment for a lease/purchase of one of our Vactor trucks. Currently 14.25 FTE of the stormwater staffing and their operating costs are being supported by Stormwater Fees. One half of the annual \$1.5 million for pipe repair and rehabilitation is also supported here. The other half is supported from the Town's fund balance policy. There is also an annual funding of maintenance of stormwater assets. With the projected annual increase of these items, if we do not make any changes with our Stormwater Fees our fund balance will go negative in 2031 and we will be out-of-compliance with our required revenue-to-debt ratio on our SRF in 2034.

9. STORMWATER IMPROVEMENT PROGRAM FUNDING

How to address Stormwater solvency and fund Stormwater Improvement Program

- Increase stormwater fees
- Reduce existing expenditures
- Reallocate existing expenditures to other revenue sources
- General Fund support of new debt service
- Any combination of the above

Ms. Cotov stated to ensure solvency of our stormwater fees and to be able to fund a Stormwater Improvement Program, there are various options. The first is to increase stormwater fees. Each \$20 in stormwater fees generates approximately \$875,000 in revenue. There is the option of reviewing how existing funds are expended and determining if any can be reduced. In the review, other funding

sources can be considered. Instead of using stormwater fees to support debt service, General Fund debt millage could be considered as well as any combination of the above.

9. STORMWATER IMPROVEMENT PROGRAM FUNDING

Program

- **Borrowings to Support**
 - Snee Farms SRF (already funded)
 - Old Village \$10,000,000
 - 3rd Stormwater Construction \$10,000,000
 - 4th Stormwater Construction \$10,000,000
- **Annual Projects**
 - \$750,000 in pipe repair and rehabilitation
 - \$300,000 in asset maintenance
 - \$2,800,000 in additional projects over the next five years

Ms. Cotov stated that the proposed funding of this program is from stormwater fees. This would provide funding for four stormwater construction projects over the next five years. The first we already have, Snee Farm, next would be \$10 million for the two basins in the Old Village, the third would probably come out of the current study of Hobcow Point and the fourth would most likely be based on next year's study. The program maintains the \$750,000 annual funding for repair and rehabilitation, \$300,000 for asset maintenance and the ability to cash fund \$2.8 million over the next five years in other projects.

9. STORMWATER IMPROVEMENT PROGRAM FUNDING

Funding Consideration

- Stormwater Fees
 - Increase \$40 to \$100 per ERU
 - Include an escalation CPI factor capped at \$20
- Reduce existing expenditures
 - Stormwater Fee Collection Agreement renewal, limit County collection fee

Proposed Funding

- Provides sufficient revenue to maintain required revenue to debt ratio (115%)
- Provides sufficient revenue to remain solvent for the next 40 years

Ms. Cotov continued, that to fund this program, it is recommended that Stormwater fees be increased from \$60 to \$100 next year and that a CPI escalation factor be included, like what the City of Charleston does. Annually the SC Revenue and Fiscal Affairs Office sends the consumer price index amount of the increase in the average of the 12 monthly CPIs from the preceding calendar year to the Town, as required by State Code, to calculate the municipal millage rate percent increase limitation. This escalation would be capped when it reached a total fee of \$120 or \$10 per month. We would look to reduce future cost when we update our collection agreement with the County, which expires this year. Instead of 2% of total revenues to change it to a flat amount with, potentially, an escalation factor. These changes would provide enough revenue that we would not fall below our revenue to debt ratio over the next 40 years and we would not deplete our fund balance.

Mr. John Watkins of 4150 Colonel Vanderhorst Circle which is part of Dunes West. Mr. Watkins is the General Manager for Dunes West and stated that they spend considerable money for stormwater management. They have 1,600 drainage boxes in more than 40 miles of stormwater pipe and they pay for it themselves. He asked why Dunes West residents are charged a stormwater fee.

Mr. DeMoura stated that one of the common misconceptions about

the program is that if you pay a dollar it stays directly where you are. That is not how it works. It is a Town wide program that goes from the men in the ditches cleaning it to keeping water off the roads and proper engineering. It is for the full program for the town that is more than just the day-to-day operations, but also the prioritization of projects and construction projects. At the time the decision was made for that neighborhood to privately install that infrastructure. It may or may not have been installed to our standards. If not, we do not accept it. There are other things that the residents of that community can enjoy from the stormwater perspective that the fee goes to fund.

Mr. Watkins stated that in addition to the stormwater systems, it is the streets that he is worried about, 35 miles of those and 85 retention ponds are also fully paid for by Dunes West Homeowner's Association Dues.

Mr. Santos stated that we were not sure it was done up to the Town's standards.

Mr. Watkins stated that while all the recent roads have been up to Town's standards, and the Town assures that, the fact is it does not matter because they are never going to be turned over to the Town. He stated that since the Town will never have responsibility for them, why worry about it and put it in your budgets?

Mr. Bustos stated that we have neighborhoods who dutifully pay their Stormwater fees, and because they are on state roads, they have never had stormwater drainage. Part of that inequity is what we are trying to fix. He stated that Dunes West is a gated community. The general public does not have free access to Dunes West. There are tradeoffs when you decide to choose to live in a gated community. If we were to raise Stormwater fees to \$100, how long would that carry us? We have old systems that we are keeping up. We have systems to put in that have never existed, and one day we may have Dunes West that we must work on too, as we go forward. How long will the \$40 carry us?

Mr. DeMoura stated that, as Ms. Cotov mentioned, it carries us for 40 years. The great shortcoming is that amount only allows us to take on four Capital Projects. Once you get past the top four priority projects in terms of drainage, there are going to be others even before you get to the newer subdivisions. It will carry us 40 years as far as operationally, and as far as satisfying the bond payments on those four capital projects, but even at that amount of \$100, it does not allow us to reach more capital projects because they are so expensive until the debt is satisfied.

Mr. Bustos asked if we have \$40 and an escalator of a cap of \$120, how long will that take, or is that insurance against running out of money? Once these are completed, we are going to have an even bigger drainage system that the Town is going to have to care for.

Mr. DeMoura stated it will allow us to satisfy the debt for four projects at \$10 million, and perform the current maintenance we perform, for the next 40 years. It does not allow us to reach any newer capital projects until the debt on those four projects is satisfied in the 20-year bonds on each of those projects. Major capital projects will be on hold until those are paid off.

Ms. Landing stated that \$20, gives us \$875,000. \$40 gives us about \$1.75 million annually. How to address this? Increase the fees, that's what we are talking about. Reduce existing expenditures. Reallocate existing expenditures to other revenues, and general fund support of new debt service, or any combination. Being involved on the Economic Development side and looking at what can happen when you bring a company in, like a Jear Logistics, that a couple years ago was doing x amount and four years later is doing 11 times that. They are paying a lot more now in Business License fees. If we could look at some combination rather than saying, we are going to raise fees. Every time we raise taxes, somehow that money gets used for what you have, but never goes away. Everyone in the public knows that. She believes we need to exhaust every other possibility before that. We could do good planning in Economic Development, we may be

able to come up with other ways to come up with the \$1.75 million per year.

Mr. Bustos stated that anything that comes out of the resident or business owners' pockets and ends up in the Town's coffers, it is a tax. Whether it is a stormwater fee or a Business License fee, the Town must have money to run the Town and that is where it is. We would love to find another bucket of money to get that, but this is one that we started talking about awhile ago, and then we found out we were woefully behind in drainage. We can look at our neighbor across the harbor, and they have wrestled with flooding forever. He would hate for Mount Pleasant to do that because of any combination of things. Are you looking for a recommendation to Council?

Mr. DeMoura stated that at the point the Committee and Council feel ready, what we expect to have the final design shortly for the Old Village portion to two basins. We cannot move forward with the construction until we have a revenue source. We would love a decision prior to the end of the calendar year.

Mr. Bustos stated there is a problem and we are going to have to find the money to do this. He stated we cannot get behind the way Charleston did.

Ms. Landing agreed with Mr. Bustos. Some of the projects we are working on right now could be substantial in new revenue. If we can do that and we can come up with ways to have new revenue because of businesses that come here, that could help us pay a lot of infrastructure bills.

10. Approval of Community Investment ranking criteria

10. COMMUNITY INVESTMENT RANKING CRITERIA

Appropriations of public funds must be for a public purpose.

All funds should be treated and considered as “public funds” regardless of source of funding.

No money shall be paid from public funds to be used for direct benefit of any religious or other private educational institution.

Public Purpose defined:

- Promotion of the public health, safety, morals, general welfare, security, prosperity, and contentment of all (or at least a substantial part thereof) the inhabitants or residents.

Ms. Cotov stated that Staff was asked to look at the Town’s Community Investment Policy. They first revisited public funds provided to community organizations. When providing public funds to community organizations, the funds should serve a public purpose. Funding, regardless of its source is consider public and should not directly benefit any religious or private education institution. This comes from the predominant rule in the United States and two provisions of the South Carolina Constitution

10. COMMUNITY INVESTMENT RANKING CRITERIA

4-part test if it meets “public purpose”

1. What is the intended ultimate goal or benefit to the public?
2. Are public parties or private parties the primary beneficiaries?
3. Is the benefit to the public speculative?
4. What is the probability that public interest will be ultimately served and to what degree?

Ms. Cotov stated that South Carolina Courts have used a four-part test in analyzing if funds were expended for public purpose. The four-part test are shown on the slide.

10. COMMUNITY INVESTMENT RANKING CRITERIA

4 general controlling legal principles:

1. Grants without restrictions should be avoided
2. 4-part analysis should be used (from previous slide)
3. Performance-based contracts for specific services should be considered as appropriate vehicle for any funding
4. Controls put in place for any expenditure

Ms. Cotov stated that there are also general controlling legal principals. Unrestricted grants should be avoided, and the public purpose test should be used, that municipalities receiving specific services should consider contracts with the organization and there should be controls, such as conditions, in place.

10. COMMUNITY INVESTMENT RANKING CRITERIA

Per Policy, Town staff reviews applications to include:

- Mission Statement
- Registered as non-profit with State
- Past Town awardee
- Statement on usage of requested funds
- Demonstration of all entities providing funding
- Ability of agency to demonstrate public benefit to Mount Pleasant
- Stability of organization
- Length of existence and number of years serving Mount Pleasant
- Financial reports, condition of finances
- Percent of expenses directly spent on programs
- Services provided to Mount Pleasant
- Signed agreement that funds will be spent in accordance to approved application
- Final report on usage of funds

Ms. Cotov stated that due to annual petitions to the Town of funding for charitable organizations, the Council established a Community Investment Policy in 2016. Each year staff reviews applications for

funding to ensure the organization meets the Policy criteria shown here. If the organization meets the criteria, then the request is included in budget deliberations. This year we are proposing to rank the requests based of the specific criteria to ensure that the intent of the Policy and the law are met and to help in decisions-making.

10. COMMUNITY INVESTMENT RANKING CRITERIA

Staff will rank all applications with the following scales:

Length of time serving Town	Percent spent directly on programs	Number of population served	Required service in lieu of Town	Reliance on government funding
> 10 years 1	0% - 50% 1	0 - 20,000 1	No 0	76% - 100% 1
> 20 years 2	51% - 80% 2	20,001 - 40,000 2	Yes 4	51% - 75% 2
> 30 years 3	81% - 90% 3	40,001 - 60,000 3		26% - 50% 3
> 40 years 4	91% - 100% 4	> 60,000 4		0% - 25% 4

Ms. Cotov stated that Staff will rank each application based on the following: The length of time the organization has provided the service to the Town. The longer the time, the more points assigned. The percentage of the organization funds spent directly on programs. The higher the amount, the more points assigned. The amount of the Town’s population served by the organization. The more served, the higher the points assigned. If this is a required Town service that the organization is providing in lieu of the Town providing that service, then points will be assigned. The amount of reliance the organization has on government funding. The higher the reliance, the fewer the points assigned.

10. COMMUNITY INVESTMENT RANKING CRITERIA

Recommendations:

Create performance-based contracts with certain non-profits to provide services that Town otherwise cannot perform in a cost-effective manner

- Examples:
 - Charleston Animal Society - Police
 - Coastal Crisis Chaplaincy - Police
 - IOP Walk and Run for the Child - Recreation

Staff will rank applicants based on criteria and provide funding recommendation as part of the proposed budget each year

Ms. Cotov stated that the recommendation to the Finance Council is twofold. First, we would like to look at the funding for certain organizations that provide services to the Town to be located in the departments that they serve and let the departments work out contractual arrangements with them. They would take them out of the community investment donation section. Second is that staff will rank the applicants based on the Policy criteria and the ranking chart shown, recommended funding based on scores and funding availability and to provide it as part of the budget process to Council.

Mr. Bustos made a motion to recommend the Community Ranking Criteria; Ms. Landing seconded. All in attendance voted in the affirmative.

11. Adjourn

There being no further business, the meeting was adjourned at 3:00 p.m.

Respectfully submitted,
Gina Artrip
November 7, 2018