



Richland County Council  
Regular Session  
June 4, 2019 – 6:00 PM  
Council Chambers

COUNCIL MEMBERS PRESENT: Paul Livingston, Chair; Dalhi Myers, Vice-Chair; Joyce Dickerson, Calvin “Chip” Jackson, Gwen Kennedy, Bill Malinowski, Jim Manning, Yvonne McBride, Chakisse Newton, Allison Terracio and Joe Walker

OTHERS PRESENT: Michelle Onley, Beverly Harris, John Thompson, Stacey Hamm, Larry Smith, Jennifer Wladischkin, Trena Bowers, Ashiya Myers, Sandra Yudice, Shahid Khan, Michael Niermeier, James Hayes, Ashley Powell, Dwight Hanna, Ismail Ozbek, John Hopkins, Tiffany Harrison, Kimberly Williams-Roberts, Cathy Rawls, Bill Peters, Geo Price, Angela Weathersby, Dale Welch, Clayton Voignier, Allison Stone, Art Braswell, Ronaldo Myers, and Brad Farrar

1. **CALL TO ORDER** – Mr. Livingston called the meeting to order at approximately 6:00 PM.
2. **INVOCATION** – The invocation was led by the Honorable Jim Manning
3. **PLEDGE OF ALLEGIANCE** – The Pledge of Allegiance was led by the Honorable Jim Manning
4. **PRESENTATION OF PROCLAMATIONS**
  - a. **A Proclamation Honoring the life of Wayne Clay Sumpter** – Ms. Newton, Ms. McBride and Ms. Myers presented a proclamation to Ms. Margaret Sumpter.
  - b. **Resolution Honoring Jim Gandy upon his retirement from WLTX News/Weather** – Mr. Livingston presented a resolution to Mr. Gandy in honor of his retirement.
5. **APPROVAL OF MINUTES**
  - a. **Regular Session: May 21, 2019** – Ms. Dickerson moved, seconded by Ms. Terracio, to approve the minutes as distributed.

In Favor: Terracio, Malinowski, Jackson, Myers, Kennedy, Walker, Dickerson, Livingston and McBride

Present But Not Voting: Newton and Manning

The vote in favor was unanimous.

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6. **ADOPTION OF THE AGENDA** – Ms. Kennedy requested to add an item to the agenda to aid the citizens at the Killian Lakes Apartments that were displaced by the recent fire. Ms. McBride seconded the motion.

Mr. Malinowski stated it appears Ms. Kennedy has some facts and information, but if we are going to need something at discussion time, we may need staff to seek that out for us to have.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Kennedy, Manning, Walker, Dickerson, Livingston and McBride

The vote in favor was unanimous to amend the agenda.

Ms. Dickerson moved, seconded by Ms. Kennedy, to adopt the agenda as amended.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Kennedy, Walker, Dickerson, Livingston and McBride

Present But Not Voting: Manning

The vote in favor was unanimous to adopt the agenda as amended.

7. **REPORT OF THE ATTORNEY FOR EXECUTIVE SESSION ITEMS** – Mr. Smith stated the following items are eligible for Executive Session.

- a. Satellite Sewer Agreement
- b. Amendment to Sewer Agreement
- c. PDT Contract/Legal Advice
- d. Pending Litigation: Dunlap vs. Richland County and Correct Care Solutions, et. al.
- e. County Administrator Search Update

8. **CITIZENS' INPUT: For Items on the Agenda Not Requiring a Public Hearing** – Mr. Lester Young spoke regarding Item # 16(c) "Banning the Box".

9. **CITIZENS' INPUT: Must Pertain to Richland County Matters Not on the Agenda** – No one signed up to speak.

10. **REPORT OF THE ACTING COUNTY ADMINISTRATOR**

- a. Penny Program Transition Update – Mr. Niermeier stated, on p. 50 of the agenda, there is a brief overview of the transition efforts.
  - Time clock system purchased. Installation coordinated with IT for installation in June. Developing a time charging schema with payroll and IT.
  - Gap analysis was conducted between current functions of the PDT and the Dept. of Transportation, which resulted in a transition update proposal for resources that we would need to make sure we are successful come November. A draft of that will be reviewed by Administration directly.
  - They continue to have weekly transition updates with the PDT.
  - They recently hired a Project Engineer; will be starting on June 17<sup>th</sup>.

- They will be relocating to their new location in the near future.
- Will be setting up financial turnover meetings in June with Finance and PDT.

Mr. Malinowski inquired as to where they are and where they will be relocating to.

Mr. Niermeier stated they presently next door at 2000 Hampton Street, and they will be moving across the street to 2009 Hampton Street in the old All Medical space.

Mr. Malinowski inquired as to who is over the inspectors.

Mr. Niermeier stated the inspectors are under Mr. Nathaniel Miller, who is the Budget Contract Manager.

Mr. Malinowski requested an organizational chart.

Dr. Thompson stated he will resend the transition plan, which includes the organizational chart.

Mr. Malinowski inquired when the current contract expires for the On-Call Engineering Team.

Mr. Niermeier stated the 5 OET contract expires in March 2020; however, there are service orders that are ongoing and will continue pass that time.

Mr. Malinowski does not understand why we hire someone in June for a contract that does not expire until March.

Mr. Niermeier stated the decision was made to get that out and solicited early so it is in place by the time the contracts expire and the “new” OETs are ready to go.

Mr. Malinowski inquired if it would be a contract with the new team.

Mr. Niermeier stated it will be whoever responds to RFQs for the new OETs. It will be similar to the current OET contract.

Ms. McBride stated there are 2 streets (House St. and Magnolia) where contractors have stopped work on the sidewalks because it was said they were not being paid. She inquired as to why the contractors were not paid and the status of this matter.

Mr. Niermeier stated the budget transfers that were approved by Council last month were finally approved today, so there should be checks cut tomorrow to pay everyone. It was a bit of an arduous process, with the guidance they were given, to make sure all the invoices matched what needed to be transferred to make the payments. They are trying to prevent that in the future.

She inquired if the contractors are back at work, or are they in the process of starting to work again.

Mr. Niermeier stated he had not spoken to the contractor in about a week, but they have said as soon as they are paid they will be back on site.

Ms. McBride inquired if there is a time she can tell the constituents the work will begin again.

Mr. Niermeier stated he can confirm with the contractor when, and if, they get paid they will be back and bring that information back to Council.

Ms. McBride stated she hopes, in the future, that we will not have to go through this again. We need to make sure there is a mechanism or procedure in place to ensure that does not happen.

Ms. Dickerson inquired about what will happen to the PDT Office.

Mr. Niermeier stated that space is leased by the PDT, so when the contract expires the space will no longer be needed.

Mr. Malinowski noted in the briefing document it states: "Meeting with Department Contracts and Budget Manager to develop cost saving metrics for future presentation." He inquired if that means they are planning to bring something to Council to show them the cost savings matrix.

Mr. Niermeier stated responded in the affirmative. One of the things they want to provide is where we will see the cost savings and what the cost savings will be.

Mr. Malinowski inquired if there are specific qualifications for the employees they are planning to hire, and if all of the new hires will meet those qualifications.

Mr. Niermeier responded in the affirmative.

Mr. Manning stated we have 5 OETs, so is the RFQ going to be for 5 OETs that will begin when the current OETs contract ends next year.

Mr. Niermeier stated 5 is a good number to work with since that is what we have now. It has not been officially decided if there will be 5 or less; or 5 or more. It is a RFQ, so anyone that feels they are qualified can submit, so we could qualify all of them, but then we may only get 3 submittals. They will have to see what comes in.

Ms. McBride stated she thought, when did our planning, it was based on need. So, would we not know if we need 3, 4 or 5, or are we pulling a number out of thin air.

Mr. Niermeier stated they have not decided on how many OETs they need moving forward. They are using 5 as a generality because that is what is in place now. Once they let the RFQ out, they will see what kind of response they get back, and, of those respondents, which ones meet the qualifications that are set in the RFQ.

Mr. Jackson stated one of the concerns they need to make clear is, if there is an expectation that we are going to continue the level of work, production and performance that is currently underway, then the number 5 is not an arbitrary number being pulled out of the air. It is a number that is being used to work at the pace we are working out. If we end up with fewer On-Calls than we have currently, the expectation would be there will be less work being accomplished because you do not have the level of physical presence. In addition, even if you get those that are highly qualified there is still going to be a transition period for these On-Calls to understand the projects and work that has already been done, and has been ongoing. To expect that they would hit the ground running, he is not sure how realistic that is. He stated he hopes that everyone is planning to be at the work session on June 18<sup>th</sup> because we need to have some hard conversations about how much work we are going to continue to let out, what we are going to put the stop work on, and how we are

expecting to meet the goals and objectives that have been defined. We need to let the public know, as a result of having fewer On-Calls, Inspectors, Contractors, that we have determined that we are going to do less work and meet less goals. In addition, with Carolina Crossroads getting started, there will be fewer vendors available, so the expectation for us to maintain the same level is not realistic. Without these answers, it puts our Transportation Department in a quandary because now they are having to determine whether or not we are going to continue to do design work.

Mr. Manning stated, with this RFQ, is there a plan to overlap the current 5 OETs with the firms that come in qualified.

Mr. Niermeier stated the plan is, when the current OETs contracts end, the next base contract would be in place.

11. **REPORT OF THE CLERK OF COUNCIL**

- a. Upcoming Budget Meetings: – Ms. Roberts reminded Council of the upcoming budget meetings.
  1. June 10 – 3<sup>rd</sup> Reading of Biennium Budget (FY20)
- b. Community Relations Council's 55<sup>th</sup> Anniversary Luncheon and Awards, June 12, 12:00 Noon, Columbia Metropolitan Convention Center, 1101 Lincoln Street – Ms. Roberts reminded Council of the upcoming Community Relations Council's Luncheon on June 12<sup>th</sup>. A discussion took place in regards to Council purchasing at table for the event. It was decided, if Council members wish to attend they will purchase individual tickets.
- c. Penny Program Alignment Work Session, June 18, 2:00 PM, Council Chambers – Ms. Roberts reminded Council of the Council work session on June 18<sup>th</sup> at 2:00 PM in Chambers.

12. **REPORT OF THE CHAIR**

- a. County Administrator Search Update – This item was taken up in Executive Session

13. **APPROVAL OF CONSENT ITEMS**

- a. Clemson Road Recycling Drop-Off Site Lease Renewal – Mr. Jackson moved, seconded by Ms. Myers, to approve this item.

Mr. Jackson requested Public Works to take a closer look at the appearance of the site, and the frequency of the pickups. There are times when the excess overflows the containers onto the ground.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Kennedy, Walker, Dickerson, Livingston and McBride

Present But Not Voting: Manning

The vote in favor was unanimous.

14. **SECOND READING ITEMS**

- a. Authorizing the expansion of the boundaries of the I-77 Corridor Regional Industrial Park jointly developed with Fairfield County to include certain property located in Richland County; the execution and delivery of an infrastructure credit agreement to provide for infrastructure credits to North Main Senior, LLC; and other related matters – Mr. Jackson moved, seconded by Ms. Myers, to approve this item.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Kennedy, Walker, Dickerson, Livingston and McBride

Present but Not Voting: Manning

The vote in favor was unanimous.

15. **REPORT OF DEVELOPMENT AND SERVICES COMMITTEE**

- a. I move to direct the County Administrator to solicit proposals for a survey to residents of Richland County. The purpose of the survey will be to help the County strategically plan for the future as they continue to grow and meet new challenges. The survey will also assist elected officials, as well as County administrators, in making critical decisions about prioritizing resources and helping set the direction for the future of the County. The survey will gather and analyze input and data from residents on service quality, priorities and overall performance and satisfaction with County services [WALKER] – Ms. Kennedy stated the committee’s recommendation was to direct the Acting County Administrator to solicit proposals for a survey, according to the objectives outlined in the briefing document.

Ms. McBride inquired about the cost of the survey.

Ms. Kennedy stated the cost is \$24,000 - \$48,000.

Mr. Malinowski stated the committee recommendation directs the County Administrator to solicit proposals, but in the recommended action, on p. 84, from staff it says, recommends Council “direct the Acting County Administrator to procure a specialized firm...” There is a difference between procuring someone and soliciting proposals. If we are voting for the RFP, he can support it, but he does not believe he can support the Administrator going out to get someone without coming back to Council. Secondly, he inquired if anyone on staff had contacted Clemson University about obtaining information on the survey that was previously conducted.

Ms. Powell responded that no one has contacted them.

Mr. Malinowski stated before moving forward we might want to see when the survey was done, and what the results were.

Mr. Malinowski moved, seconded by Ms. McBride, to defer this matter until we research it further.

In Favor: Malinowski, Livingston and McBride

Opposed: Terracio, Newton, Myers, Kennedy, Manning, Walker and Dickerson

Present but Not Voting: Jackson

The motion failed.

Ms. Myers stated, if we pass this, staff could circle back with Clemson University and gather the information, while we go forward with the solicitation of a firm.

Mr. Malinowski stated, the reason he said to defer is, rather than tie staff's hands with moving forward with proposals, and finding out that 2 years we had this survey and we do not want a full blown one, but just an update.

Ms. Myers pointed out that the Administrator is always authorized to enter into contracts below \$100,000, so typically they go through his office, which is what she believes the committee was trying to effectuate.

Ms. McBride stated having the survey and identifying strengths and weaknesses within the County services is great, but she guesses that we have all experienced these surveys, and then we put them on the bookshelf, to collect dust, due to not having enough staff to implement the findings. Her concern is, if we are going to get this humungous survey, and the results of it, are we going to be able to implement those things. The other survey gave us good information, but things were practical that we could implement.

Mr. Malinowski inquired as to where the information on p. 91 of the agenda packet was pulled from.

Ms. Powell stated she believes the date on the survey was 2016, and she got that information from Ms. Harris.

Mr. Malinowski stated, in reviewing the Mecklenburg County survey, and the number of surveys sent out, it was less than a 10<sup>th</sup> of 1%. If that is all you are going to base what you doing in the County on, he does not think it is worthwhile. We need to figure out what percentage of the people we want to get the surveys to.

Ms. Dickerson stated, if we are understaffed, this might be a way of making sure that we have the appropriate staff to do the work that we need to be done.

Ms. Newton stated it is often a good practice to continue to get the data, and information, from our populous. While we get the information from the previous survey, this allows us to get a new benchmark. Her understanding, of the latitude that we have during the procure process, is that we have the opportunity to work with the consultant to shape the types of questions we ask, so that we do, in fact, get information that is actionable and addresses the area of concerns we have. We have the opportunity, at the outset, to structure a process that is going to be beneficial for us. She thinks will be great data for us to have as we chart our course forward. It sounds like we have the will of the Council to make sure we use the data, this time.

Ms. McBride stated it was not that we did not have the will of the Council to use the data, in the past. In fact, the reason the data was not used was because there was transition with the Administrator.

Mr. Malinowski requested a friendly amendment to the committee's recommendation to receive the results of the Clemson University survey.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Walker, Dickerson, Livingston and McBride

Present but Not Voting: Kennedy and Manning

The vote in favor was unanimous.

16. **REPORT OF ADMINISTRATION AND FINANCE COMMITTEE**

- a. I move that all RC contracts must be reviewed & approved by the Office of the County Attorney & that notices under or modifications to RC contracts must be sent to the County Attorney, but may be copied to external counsel, as desired [MYERS] – Ms. Dickerson stated the committee’s recommendation was to approve the policy for the review and approval of all contracts and amendments, and to request the Legal Department to undertake an analysis of what we need to get a Contract Administration Office set up.

Mr. Jackson stated the last time he heard the conversation, regarding this motion, the County Attorney raised a number of issues regarding the volume of contracts and the fact volume that it might not be manageable by his office. In addition, contracts that were outside of this physical building, but were still under the jurisdiction of the County, and if they were being considered.

Mr. Smith stated, when this motion was sent to committee, he expressed concern about the lack of resources, based on the number of contracts, if we were talking about all County contracts, which would include contracts that are outside of the scope of departments that under the jurisdiction of the County Administration. The maker of the motion was also referring to contracts that may lie in the office of Elected and Appointed Officials. He addressed that issue with the committee, and indicated that would be a challenge, which would require additional resources. In terms of creating an office to administer the contracts, he wanted to be clear that just reviewing the contract would not be sufficient for what the County was looking for. The contracts, once they were reviewed and implemented, needed to be properly administered, which is where the other portion of his analysis came from.

Mr. Jackson stated, based upon the wording of the motion, the capacity to address that does not currently lie within the operation of the County Attorney’s Office.

Mr. Smith responded in the affirmative.

Ms. Myers stated what came up, in the committee meeting, was to empower the County Attorney to undertake an analysis of what he needs to expand his office, so that we can have a contract’s administration function within the County. The issue came up because the County is self-insured, so when the contracts go bad, the County has to, from the insurance reserves, pay whatever liability comes due. He may or may not have been able to prevent some of the issues on the frontend.

Mr. Jackson stated this motion gives him the impression that we are going to approve Mr. Smith to start doing this right away.

Mr. Smith stated he thought he made it clear, at the committee meeting, that they are not currently staffed to do what this motion requests, at this point.

Mr. Malinowski stated he made a comment, at the committee meeting, that the Internal Auditor might be of assistance in this review.



Mr. Livingston stated it would make more sense to him for us to instruct the Administrator to look at this and come back with a proposal to make this work before we try to move forward.

Ms. Myers stated, to the extent, that this is critical to protect the County she would recommend that the Administrator and the Legal Department come back with recommendations, in a timely manner.

Ms. Dickerson inquired if Ms. Myers is amending the committee's recommendation, so that we can move forward with this item.

Ms. Myers inquired, if Mr. Smith thought it would be too onerous to go forward, while he gives us the headcount that he needs.

Mr. Smith stated, once this passes, he does not know what the effect is going to be. What he would like to do is, take into consideration the concerns expressed by Council members, as well as include Risk Management in the discussion. This will allow him to get with them and evaluate exactly what we think we need to go forward. He would hate to go forward, and then have to come back.

Ms. Myers made a substitute motion, seconded by Ms. Dickerson, that Mr. Smith and the Acting Administrator collaborate with any necessary staff to bring back a recommendation for implementing this policy by the July 9<sup>th</sup> Council meeting.

Mr. Malinowski requested Mr. Smith research, in regard to "failed" contracts, how much it has cost the County. As a point of clarification, this does not include Elected Officials.

Ms. Dickerson stated she does not want us to put this policy over our Elected Officials.

Ms. Myers stated, for clarification, the point of her motion is to cover areas where the County is self-insured. For example, you could have something happen within the Sheriff's Department. He is an elected official, but all of his financial resources come directly from Council. It is for those bodies that this County self-insures. It is a protection for the taxpayers' money to be sure that whatever we put in these documents, upfront, is there. We are making sure the documents under which they procure them protects the County.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Walker, Dickerson, Livingston and McBride

Present but Not Voting: Kennedy and Manning

The vote in favor was unanimous.

- b. I move that Richland County remove the salary history question on employment applications in an effort to ensure fair hiring practices. The mandated change should apply to employment applications in print and online and the salary history question should also be removed from verbal interviews and employment screenings [TERRACIO] – Ms. Dickerson stated the committee recommended Council accept the analysis as information as well as support of fairing hiring practices, and to have Mr. Hanna bring back a cost for training for the Department heads.

Ms. Terracio stated this potentially has no budget implications. We could do it as simply as removing the salary question from the materials, and moving forward that way. There are some opportunities to do training, at varying costs.

In Favor: Teraccio, Malinowski, Jackson, Newton, Myers, Kennedy, Walker, Dickerson, Livingston and McBride

Present but Not Voting: Manning

The vote in favor was unanimous.

- c. I move that Richland County Council pass the resolution to “Ban the Box” and join more than 150 cities and counties and 33 states nationwide that have “Ban the Box” laws to remove questions about convictions from job applications; so that applications could be judged first on their qualifications [McBRIDE] – Ms. Dickerson stated the committee’s recommendation was to authorize staff to revise applicable procedures and forms to enact the resolution and ensure compliance with all applicable requirements for public safety departments, and to train departments on the procedure changes and revised documents.

Ms. McBride thanked the committee for supporting this issue. Richland County is known for being a county that support rehabilitation, and this is conjunction with our philosophy to give people a 2<sup>nd</sup> chance after they have paid their dues to society. This is a national movement, and it has extremely well. Research is supporting it. Mr. Young, who came to speak, has worked very hard with this for South Carolina. She thinks this is something that we really need to push, and we will work directly with HR to make sure that we have policies and procedures in place to give individuals a 2<sup>nd</sup> chance to have a good life and provide for themselves and their families.

Ms. Dickerson stated she supported modifying the applications 100%.

Mr. Malinowski inquired, if anyone on Council, asked Mr. Hanna how the hiring process works for Richland County.

Mr. Hanna stated Ms. McBride spoke to him regarding the hiring process of the County.

Mr. Malinowski stated he does not personally know the process we use, from the receipt of an application through the final hiring. But, during that stage, an interview is conducted.

Mr. Hanna responded in the affirmative.

Mr. Malinowski inquired who conducts the interview. (i.e. HR Director, HR Dept. or the department advertising for the position).

Mr. Hanna stated the department that is advertising for the position conducts the interview.

Mr. Malinowski stated, for clarification, the department will make the final decision on hiring the individual, as well.

Mr. Hanna stated, if it is an Elected or Appointed Official, yes. If it is not, then the County Administrator would make the final decision.

Mr. Malinowski inquired at what point will the applicant’s application be made complete to show that they did have a previous record.

Mr. Hanna stated they conduct a background check on all them, but it is not before the department

makes a recommendation and submits a Personnel Action Form to HR. The offer would be contingent upon a background check, drug test, and approval of the County Administrator.

Mr. Malinowski inquired about the cost of conducting a background check.

Mr. Hanna stated they recently did a RFP for a new service, so he will have to provide that number to Council after this meeting.

Mr. Malinowski inquired if it like \$20,000 or \$2,000 to hire an applicant.

Mr. Hanna stated he does not think it is \$2,000, unless you are talking about every single person that is involved in the process.

Mr. Malinowski inquired, at what point, is the complete application put in the person's personnel file that they had a previous record.

Mr. Hanna stated, once they check the record, it is documented. Then, a decision would be made whether or not the background record is relevant to not hiring them. In some cases, once the record is checked, a decision is made to not hire the applicant. For example, if a person is going to be working with cash, and they have a record of stealing or embezzling that would disqualify them.

Dr. Thompson stated, as we look at these applications packages, you see the information right away. There is a difference between not checking the box, and checking the box. If we have the box, you see the person's name, driver's license #, and "Did you commit a crime?" Somebody is going to make a decision on whether or not they are going to pursue this individual, or they are not going to pursue this individual. He thinks it will be a big difference, if they can go through the whole process, look at the applications, and then have HR go through the process of doing the background check. At that point, we have said the first 3 people are qualified, but we have not discount them based on a criminal record.

Mr. Hanna stated, what is being proposed, is parallel to complying with Fair Credit Reporting Act, which provides employers guidance in not automatically excluding someone because they say on their application they did "A" or "B", but considering them objectively, based on their qualifications. Then, if you decide you want to consider hiring them, you look at the record and make an assessment of their record.

Mr. Malinowski stated he thought that Richland County engaged in fair hiring practice, which meant you did not just discard the person because they had a previous record. Now he is hearing, we may be discriminating because we see a box checked.

Dr. Thompson stated, for the sake of the information being on there, he cannot say we are engaging in fair hiring practice, if it on there. No one is going to come up to you and say, "Did you negate the person from pursuing the position because they had a criminal record?" But, in the back of your mind, that can be the case.

Ms. Myers stated this is some important because it removes the subjective ability to be unfair. What we are doing, is we are saying, in Richland County, we believe in fairness and our policies reflect that. We are going to evaluate you based your character today, and not what you have done in the past. At the end of it, there are subjective factors that will be looked at by the team that is responsible for an ultimate hire. The point that we are making is we either believe in a 2<sup>nd</sup> chance,

or we do not. We are either going to allow people to be rehabilitated using the system that we have, or we do not. This box takes out of the person's hands that is evaluating the initial application the ability to be subjective. It superimposes, on the process, fairness, without anyone having the right to even think about it.

In Favor: Terracio, Jackson, Newton, Myers, Manning, Walker, Dickerson, Livingston and McBride

Opposed: Malinowski

Present but Not Voting: Kennedy

The vote was in favor.

- d. Residential Utilities Assistance Program – Ms. Dickerson stated the committee recommended Council approve the creation of the Residential Utilities Assistance Program Fund as Special Revenue Fund to implement the Residential Utilities Assistance Program. The RUAP will assist low-income households with a \$10.00 monthly credit using private donations. These donations may be made to the Residential Utilities Assistance Program Fund to implement the RUAP and provide financial assistance (i.e., \$10 per month) on a first come, first served basis to eligible and qualified low-income households. The fund will be subject to County Council's annual appropriations, and funds will be available each fiscal year until the appropriation is exhausted.

Ms. Myers stated she loves this idea, but the requirements to get the \$10 credit seems rather extreme. She might suggest that we take a 2<sup>nd</sup> look at the requirements.

Ms. Myers moved, seconded by Ms. Dickerson, to defer this item until the July 9<sup>th</sup> Council meeting to have staff come back with a sleeker application process for review.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Walker, Dickerson, Livingston and McBride

Present but Not Voting: Kennedy and Manning

The vote in favor was unanimous.

## 17. REPORT OF RULES AND APPOINTMENTS COMMITTEE

### A. ITEMS FOR ACTION

1. I move that we establish rules for electing persons to serve on Boards/Commissions rather than going by the Parliamentarian's recollections of how it was done in the past with serious consideration to include appointments require a majority of Council member's vote [MANNING]  
– Ms. Newton stated the committee recommended the following language:

#### Preferential Voting.

This method of voting is based upon Chapter XIII, Section 45, Robert's Rules of Order, 11<sup>th</sup> Edition, and is to be used solely in circumstances where Council is called upon to vote on the appointment of members of boards, commissions or similar entities where there are more nominees under consideration than there are vacancies to fill.

This rule combines a recognition of the fact that plurality voting may be unavoidable in the initial stages of voting when considering a greater number of nominees than there are vacancies to fill, and majority voting once the number of nominees is drawn down to equal the number of vacancies by virtue of the voting process set forth herein.

Due to the complexity of this unusual but not unforeseeable situation, an example may be instructive.

Ex. If there are two (2) vacancies on a County board, and there are five (5) nominees, each Council member would be permitted to cast a vote for two (2) of the five (5) nominees to fill the two (2) vacancies.

In this event, the voting procedure shall be as follows.

1. Each Council member shall be allowed to cast the same number of votes as there are vacancies to be filled. By way of further example, if three (3) vacancies exist, then each Council member would be permitted to vote for up to three (3) nominees, regardless of the total number of nominees.
2. The Clerk to Council shall tabulate the votes.
3. The nominee with the fewest votes will be removed from the slate of nominees, and the remaining nominees will be voted upon in what would be the next round of voting, with rounds to continue until enough nominees have been eliminated from consideration so that the number of nominees remaining equals the number of vacancies to be filled.
  - a) If there is a tie among those with the fewest votes, then all nominees who are so tied will be removed from the slate of nominees, and the remaining nominees will be voted upon in what would be the next round of voting. Provided, however,
  - b) if so many of the nominees are tied for the least votes, and dropping all of them from the remaining slate of nominees would result in not having enough nominees to fill all of the vacancies, then there shall be a runoff among all of the nominees so tied for fewest votes. The candidate with the fewest votes in the runoff will be dropped from the slate of nominees that had been tied for fewest votes. Once at least one of the originally tied nominees for fewest votes is eliminated by runoff among the fewest vote-getters, those remaining among the originally tied voters will be placed back among the nominees who did not receive the fewest votes, and voting shall continue in this fashion by round until there are the same number of nominees as there are vacancies. [E.g., three (3) nominees remaining for three (3) vacancies].
4. Once Council arrives at a "slate" of nominees corresponding to the number of vacancies to be filled, it is in order for any member of Council to "nominate the slate" of nominees, which shall then be voted upon by Council in the form of a motion to approve the slate by "yea" or "nay," recorded electronically unless the electronic voting system is then inoperable or it is impractical to so vote. In this case, voting by show of hands shall be in order. The slate of nominees shall be approved by majority vote of Council members present and voting.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Kennedy, Manning, Walker, Dickerson, Livingston, and McBride

The vote in favor was unanimous.

18. **REPORT OF THE TRANSPORTATION AD HOC COMMITTEE**

- a. Greene Street Phase 2 – City/County IGA – Mr. Jackson stated we have gotten all of the approvals with the railroad. The City is taking it before their Council for approval. The request is to approve the Greene Street Phase 2 IGA with the City of Columbia. Once the work is done, we will turn it over to the City.

Mr. Malinowski noted in the briefing document that the City will approve and sign the IGA on May 21. He inquired if the IGA had been signed.

Mr. Jackson stated the IGA has not been signed. The City is also voting on this item at their meeting tonight.

Mr. Malinowski stated, on p. 741, it says, “...the construction of the Project is fully funded through the Penny Tax or such other source(s) of funds as may be available to the County...costs shall not exceed the amount appropriated by the Richland County Council for the Project.” He stated he believes it should read, that have been “appropriated by Penny Tax for the Project.” Additionally, on p. 743, #6 states, “As part of the Project, the County shall, at its expense, relocate any City-owned utilities as necessary to construct the Project.” He inquired if that should read, “As part of the Project, the County shall, using Penny Tax funds, relocate...” Otherwise, Richland County becomes responsible for relocation even if it is above and beyond the Penny Tax.

Mr. Jackson stated, technically, that is true, but this only being presented through the Transportation Ad Hoc Committee. The work is only being done through the assigned vendor that comes from the Ad Hoc Committee. It does not go to Public Works, and has not been to Public Works. The Project is being done through the Penny exclusively.

Mr. Malinowski stated you and I understand that, but the court is filled with technicalities, based on legalities. Based on this wording, unless Mr. Smith can assure him that this will not cause Richland County to incur any additional expense, he does not see what the harm is putting “shall using Penny Funds.”

Mr. Jackson stated he would accept that friendly amendment.

Ms. Terracio stated they recently had a public information meeting on this project. She was curious if there was a good turnout for the meeting.

Mr. Jackson stated there was a great turnout. There were more people than they thought would be coming. Those in attendance were: the managers of Thirsty Fellows, individuals from USC, City Councilman Robert Duvall, David Beatty, Michael Niermeier, and approximately 15 – 20 residents from that area. One or 2 people had concerns about the closure, but the majority of the people were in favor. Thirsty Fellow understood that it would negatively impact them, and they certainly would prefer this road being closed than kids jumping through the stalled trains that are sitting on the railroad tracks.

Ms. Myers inquired if there is a budget, or is it just up to the referendum amount.

Mr. Niermeier stated there is a budget for this. It is part of the remainder of the overall \$52 million

Innovista project. He believes this one is approximately \$17 million.

Ms. Myers stated, given where we are with overpayments, and needing to save as much as we can, she would like to see the budget to see if there are savings that can be realized and not just a contract that says, "Up to \$17 million."

Dr. Thompson stated he does not think you are going to see any savings. There are 3 phases to the project. When you look at the ordinance, there is \$50 million for all of the phases. Once you get through the 2<sup>nd</sup> phase, you will only have about \$3 million.

Ms. Myers suggested to finish Phase II and not design Phase III, if that is all we got.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Kennedy, Walker, Dickerson, Livingston and McBride

Present but Not Voting: Manning

The vote in favor was unanimous.

- b. Approval of Tall Oaks Drive: RCU Utility Relocation Design Services – Holt #12 – Mr. Jackson stated the recommendation is to approve the Tall Oaks Drive RCU Utility Relocation Design Service Order.

Mr. Malinowski stated, on p. 751, it says, "The consultant will flag and paint, based on marking by RCU Staff along Tall Oaks Drive..." Then, it goes on to say, "The consultant shall attempt to locate existing valve boxes which tie into the existing residences." If RCU is marking these lines, do we not know where the valve boxes, so we can tell the consultant.

Mr. Khan stated they have a mechanism to locate the existing lines, valve boxes, etc. Typically, they have the drawings that shows those, but in many cases, if it is an old infrastructure, buried lines, or retrofitting has been done over the life of the infrastructure, they may not find it, so then the consultants get involved.

Ms. Dickerson inquired if Mr. Khan was familiar with this project.

Mr. Khan stated it is has not come to attention.

Ms. Dickerson requested Mr. Niermeier to explain that to her.

Mr. Niermeier stated this is a change order to an existing service order for the Tall Oaks Drive. He stated he would have to defer the Mr. Beaty for more of the specific details.

Mr. Beaty stated this where the On-Call Design Team has been asked to do a little bit more design work and research. The team is going out to pick up additional information on the utility, as a part of their normal design process. Normally, Mr. Khan would not be engaged in this kind of project.

Ms. Myers stated, she would assume, because this is Richland County Utilities...this is a design to move Richland County infrastructure, correct.

Mr. Khan responded in the affirmative.

Ms. Myers inquired if we would be in a better position, than a contractor, to know where our utilities are, and to relocate them. She did not realize they were all Richland County utilities, and we ought to have our own maps. For clarification, we are paying someone to research our maps.

Mr. Khan stated, when you approve this, whoever is the designer, will approach County staff. Staff has the record drawings. We know where our utilities are, so the consultant will take the records and go back and mark them up. Once they are marked up, they will develop a design. The design has to be compliant to Richland County Utilities standards and specifications. The consultant will come back to him, at that time, and present the plan for approval. If it compliant, we will grant them approval, and they will do the installation or construction. We have the drawings, but someone has to take those drawings and go in the field to mark them. We have all the records, but someone has to physically identify them, and make sure what is on the piece of paper is on the ground, as well.

Ms. Myers inquired if we ever move our utilities.

Mr. Khan stated, if it is a minor relocation. We are not equipped to do a major project, like this one. We would hire an external contractor to do this type project.

In Favor: Jackson, Newton, Myers, Manning, Livingston and McBride

Present but Not Voting: Kennedy and Walker

Abstain: Terracio, Malinowski and Dickerson

The vote in favor was unanimous with Ms. Terracio, Mr. Malinowski and Ms. Dickerson abstaining from the vote.

19. **OTHER ITEMS**

- a. COMET Operating/Capital Budget – Ms. Kennedy moved, seconded by Mr. Manning, to approve this item.

Mr. Malinowski stated, in the documentation that was provided, it says they are supposed to provide this capital budget, at least, 60 days prior to the beginning of the fiscal year, which they did not. He inquired if they would incur a penalty for not submitting the request in a timely manner.

Mr. LeRoy DesChamps, Director of Administration and Operations, stated he is not sure. He knows that was their plan, and was presented at the May 21<sup>st</sup> Council meeting by Mr. Andoh.

Mr. Malinowski stated there is a statement in the documentation that says, “Many duplicative functions provided by The COMET and its contractors or consultants have been eliminated.” Based on that statement, we are still paying for some duplicative processes, correct.

Ms. Dickerson stated the Board approved the budget, based on the elimination of positions.

Mr. Malinowski stated he thought there were some Board members that were there for input, but were not voting Board members.

Ms. Dickerson stated there are 11 active, voting members on the Board. There are 3 appointed by the Legislative Delegation...



Mr. Malinowski stated the City of Columbia and Richland County are putting approximately \$18 million, every year from the Penny Tax. Lexington County is paying approximately \$250,000 for services they have elected to have provided, yet they have the same 3 voting Board members that Columbia and Richland County have.

Ms. Dickerson stated Lexington County only has 1 voting member.

Mr. Malinowski stated the COMET's expected capital projects for FY20 are listed in the briefing document. On the list is training and development of staff. He did not think that training and staff development would be considered a capital project.

In Favor: Terracio, Newton, Myers, Kennedy, Dickerson, Livingston and McBride

Opposed: Malinowski, Jackson and Walker

Abstain: Manning

The vote was in favor.

- b. FY19 – District 3 Hospitality Tax Allocations – Ms. Myers moved, seconded by Mr. Malinowski, to approve this item.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Manning, Dickerson, Livingston and McBride

Present but Not Voting: Kennedy and Walker

The vote in favor was unanimous.

Mr. Malinowski moved, seconded by Ms. Dickerson, to reconsider this item.

Opposed: Terracio, Malinowski, Jackson, Newton, Myers, Manning, Dickerson, Livingston and McBride

Present but Not Voting: Kennedy and Walker

The motion for reconsideration failed.

- c. To Declare the Results of a referendum conducted for the Windsor Lake Special Tax District held in Richland County, South Carolina on May 14, 2019 – Ms. McBride moved, seconded by Mr. Manning, to approve this item.

Mr. Lawrence Flynn stated these are people, in their individual communities, that have voted to independently create a tax district to assess themselves to repair the damage caused by the flood. Lake Windsor was the last one to come through the process. They held their election in May, and the votes came in at 37 – 0.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Kennedy, Manning, Walker, Dickerson, Livingston and McBride

The vote in favor was unanimous.

- d. To Establish and Create a Special Tax District within Richland County, South Carolina, to be known as the "Windsor Lake Special Tax District"; to define the nature and level of services to be rendered therein; to authorize the imposition of ad valorem taxes and user service charges therein, which shall be imposed solely within the Special Tax District; to establish a commission for the tax district and provide the terms therefor; and all other matters related thereto [FIRST READING] – Ms. McBride moved, seconded by Mr. Manning, to approve this item.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Kennedy, Manning, Walker, Dickerson, Livingston, McBride

The vote in favor was unanimous.

- e. Killian Lake Apartment Fire Assistance – Ms. Kennedy stated, in February 2019, County Council appropriated \$150,000 to assist displaced residents of Allen Benedict Court. Out of that, there is currently a residual of \$22,920. This past weekend residents of Killian Lake Apartments were displaced, as a result of fire at the apartment complex.

Ms. Kennedy moved, seconded by Ms. McBride, to utilize a portion of the remaining funds, previously appropriated for displaced residents of Allen Benedict Court, to benefit displaced residents of Killian Lake Apartments.

Mr. Jackson inquired how the funds will be used. When we talked about the Allen Benedict Court, we had an elaborate plan of how the funds would be used.

Mr. Smith stated the idea is to allow the residual amount to be utilized by the agencies that are currently assisting the Allen Benedict Court residents.

Mr. Jackson stated he would like that to be included in the motion, so it is not ambiguous about how the money will be spent.

Ms. Kennedy agreed to include that, as a part of the motion.

Ms. Dickerson requested clarification on what we are voting on.

Mr. Hayes stated, back in February, Council voted to approve \$150,000, from the General Fund Contingency. The residual of that funding is approximately \$22,920.

Ms. Terracio stated she is unfamiliar with this apartment complex, and inquired if these are affordable housing units, similar to Allen Benedict Court.

Ms. Kennedy stated some of them are, but not all of them.

Ms. Newton stated the proposal is to have the same organizations to distribute the funding. She inquired if those organizations agreed to do this.

Mr. Hayes stated he were contacted yesterday by the Legal Department; therefore, he has not had an opportunity to discuss this with the organizations.

Ms. Newton stated, the motion, as she understands it, says, “a portion of the funds.” Since, her understanding is that funds are still being dispersed to former residents of Allen Benedict Court, how would the process work, if they are administering the dollars for Allen Benedict Court and someone else comes from the apartment complex. Does it then become first come, first served? Or, are we going to set aside a specific portion of these dollars?

Mr. Hayes stated the funds that have been approved have been specifically budgeted down to the 5 organizations. There was a budgeted amount for the United Way, for Harvest Hope, etc. In addition to those amounts, the \$22,920 will be separate funding that will be allocated to those groups.

Ms. Newton stated, for clarification, the total budget was up to \$150,000, but the remaining funds being referenced in this motion are essentially undesignated for a specific purpose.

Mr. Hayes responded in the affirmative. Originally, Council set aside \$150,000. The groups requested \$127,080.

Mr. Walker stated the qualifications for being a resident at Allen Benedict Court were the gateway to the program that we implemented for aid with that facility. He inquired if there is such a gateway, as it pertains to Killian Lake Apartments, given there is a hybrid of low-income housing vs. market rate housing. He inquired how we are going to protect this aid, in essence, and get it to the people it is intended for, when we just say, “Killian Lake Apartment displacees” are a party to this program. He stated he should have qualified this with; he is as charitable a person as there is. He loves helping his fellow human, but he wants to make sure we are not opening ourselves up a slippery slope. There is a lot of fires around this County, and compassionate hearts are going to want to help where we can, but we need to be programmatic in our responses to these types of events. While he certainly agrees with the endeavor, he thinks we need to be careful that we are opening up a door that could hurt us down the road, from a precedence setting perspective.

Mr. Smith stated this was brought to his attention by Ms. Kennedy, who stated there was a fire in her district, which impacted some low-income residents and displaced by the fire. She wanted to know if there was anything that could be done to assist them. At that point, he thought about the program, which had been established for emergency kinds of situations. He contacted Mr. Hayes to find out what the status of that was. Mr. Hayes told him that \$127,000 had been appropriated to the Allen Benedict Court situation, and that there was a residual of approximately \$22,000. Then, he assisted Ms. Kennedy to bring this matter before Council to decide whether or not it would be appropriate to assist those individuals, who had been displaced, with some portion of those funds, through the agencies that are currently assisting the individuals from Allen Benedict Court.

Ms. Dickerson stated she supports assisting displaced residents, but she thinks, we need to find out whether or not the current organizations will be willing to assist us with the disbursement of these funds, and that we go through them to identify those persons who really need assistance. We do not need to task organizations with something we do know whether or not they want to take on.

Ms. Kennedy stated it is not a massive number of apartments that have burned. She is sure it will not take the full amount to help those residents.

Mr. Livingston stated, if we are going to approve this, it should be contingent upon the current organizations agree to do it, and we recognize those low and moderate-income individuals that are located in this particular complex. If we make a motion contingent upon those things, so we will know what the benefit is and outcome of the funding.

Ms. McBride stated it is a very low-income area. When we started the project for Allen Benedict Court, we did not really know all the services, but we worked and developed it. Now we have a process in place with them. Based upon what her colleagues have said, the process is there. We do need to have their approval, but as Ms. Kennedy said, it is not a lot. If we can make the amendment to the motion, to make it contingent upon the ability of the agencies to work with the apartments.

Ms. Dickerson seconded the amendment.

Ms. Myers stated, the modification, on one side, was to make sure the agencies are still doing this and they would be willing to help the people. The other side was that they are similarly situated, as the Allen Benedict residents, so that they meet the income threshold because the whole point was these were people who otherwise could not help themselves.

Mr. Malinowski stated the Allen Benedict Court apartments were government, subsidized housing. He does not know how the individuals were classified. With the Killian Lakes Apartments, we are talking about low-income residents. He inquired if there is a difference between the two, or do we have to make sure the individuals have the same qualifications as the government subsidized people. Otherwise, we will be helping low-income people all over the County on everything.

Mr. Smith stated he does not know all of the qualifications of the individuals that were assisted at Allen Benedict Court. He thinks that what is being proposed, at this point, is that the Council allow the agencies that are being proposed to assist to vet the individuals who were impacted by the fire to determine exactly what their fiscal ability is, and, then make a decision on whether or not they fit within they fit within the process established for Allen Benedict Court.

Mr. Jackson stated the issues, for him, is to make sure that we are helping people who need it the most, so we create whatever appropriate clearance mechanism to make sure that happens. As much as we may not want to admit it, there are people who abuse the system. They use the philanthropy nature of groups like this to take advantage of the system. He does not want to become a party to blanketing saying, whenever there is a fire any apartment complex in Richland County, Council now has to come up with funds to help those displaced persons. If we start that, there are a lot of market rate apartments, where people have had fires, and he does not think that we need to do that. There are people who have rental insurance, in apartments, although these may not be the case. He wants us to make sure that we do it in a way that it does the most good, so we do not confuse our efforts. In many cases, if, in fact, these are low-income, they are probably on Section 8. There are people who are affordable residents, living in apartment complexes, where their neighbor upstairs and downstairs are paying market rate, so he does not want to give permission to blanketing fund an apartment complex because there was a fire until he is assured the people that is going to benefit from it are the ones who need it the most.

Ms. McBride stated oftentimes people cannot get on public housing because we do not have adequate public housing. Those people are in the same financial and economic state as those people who are living in public housing. Oftentimes, they have to live in subhousing conditions because they cannot get into public housing.

In Favor: Terracio, Jackson, Myers, Kennedy, Manning, Dickerson, Livingston and McBride

Abstain: Malinowski

Present but Not Voting: Walker

The vote in favor was unanimous with Mr. Malinowski abstaining from the vote.

20. **EXECUTIVE SESSION** – Ms. Myers moved, seconded by Ms. Terracio, to go into Executive Session.

In Favor: Terracio, Jackson, Newton, Myers, Walker, Livingston and McBride

Present but Not Voting: Malinowski, Kennedy, Manning and Dickerson

The vote was in favor of going into Executive Session.

*Council went into Executive Session at approximately 8:15 PM and came out at approximately 10:12 PM*

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Kennedy, Walker, Dickerson, Livingston and McBride

Present but Not Voting: Manning

The vote in favor was unanimous.

a. Satellite Sewer Agreement/Amendment to Sewer Agreement – Ms. Myers moved, seconded by Ms. Terracio, to approve as discussed, and presented by staff, in Executive Session.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Kennedy, Walker, Dickerson and Livingston

Present but Not Voting: Manning and McBride

The vote in favor was unanimous.

Ms. Newton moved, seconded by Ms. Terracio, to reconsider this item.

Opposed: Terracio, Malinowski, Jackson, Newton, Myers, Walker, Dickerson and Livingston

Present but Not Voting: Kennedy, Manning and McBride

The motion for reconsideration failed.

b. PDT Contract/Legal Advice – No action taken.

c. Pending Litigation: Dunlap vs. Richland County and Correct Care Solutions, et. al. – No action taken.

d. County Administrator Search Update – Ms. Myers moved, seconded by Ms. Newton, to execute the document as discussed in Executive Session.

In Favor: Terracio, Jackson, Newton, Myers, Kennedy, Manning, Walker and Livingston

Opposed: Malinowski and Dickerson

Present but Not Voting: McBride

**Regular Session**

**June 4, 2019**

**-21-**

The vote was in favor.

21. **MOTION PERIOD**

- a. Council must re-visit and address the roads situation where developers have not finished roads in Richland County and they are considered private. A funding source must be located. This has been discussed in committee meetings, work sessions and Council Retreat, so it should go on a regularly scheduled meeting agenda [MALINOWSKI] – This item will be discussed at the next Horizon meeting.
- b. On November 16, 2017 the A&F Committee directed the legal department to prepare a structured proposal addressing the creation of a service fee agreement or Ordinance for property not taxed in Richland County but receiving all the services that taxpayers do. This matter should be immediately addressed and brought back with the requested information to the June 2019 A&F Committee [MALINOWSKI] – This item was referred to the A&F Committee.
- c. Fund Balances for inside and outside departments/agencies receiving funds from Richland County should not exceed a certain percentage of their operating budget. This is a request to address this matter and determine what reasonable percentage that should be. [MALINOWSKI] – This item was referred to the A&F Committee.
- d. This is a request that the Utilities Department adheres to the policy established by Council as indicated below on May 15, 2007 and in an effort to achieve this Council policy, the following language is to be added: “the feasible reach in Section 24-48 for the Broad River Basin shall be limited to current boundaries/extremities of the sewer system and should limit the developments as infills/pockets within the service area currently enclosed by existing sewer lines terminals/end points. [SECTION24-48 – refers to construction of facilities within the reach of a planned portion of a public sewer interceptor and provides in part.... “The developer shall, when the development involves construction of new sewer facilities within the feasible reach of a planned portion of public sewer interceptor participate in the cost of extending the public interceptor to serve his development and shall connect to such system. The developer shall participate in the cost of such extension in an amount not less than the cost of the line size necessary to serve his development.” [MALINOWSKI] – This item was referred to the D&S Committee.

23. **ADJOURN** – The meeting adjourned at approximately 10:19 PM.