



Richland County Council

ADMINISTRATION AND FINANCE COMMITTEE

October 22, 2019 – 6:00 PM

Council Chambers

2020 Hampton Street, Columbia, SC 29204

COMMITTEE MEMBERS PRESENT: Joyce Dickerson, Chair; Bill Malinowski, Yvonne McBride, Joe Walker and Dalhi Myers

OTHER COUNCIL MEMBERS PRESENT: Chakisse Newton, Allison Terracio, Jim Manning and Paul Livingston

OTHERS PRESENT: Michelle Onley, Larry Smith, Stacey Hamm, Jennifer Wladischkin, John Thompson, Clayton Voignier, Ashiya Myers, Ashley Powell, Angela Weathersby, Leonardo Brown, Dale Welch, Gary Watts, Judy Carter, Sandra Haynes, Chris Eversmann, Michael Niermeier, Stephen Staley, James Hayes, and Tyler Kirk

1. **CALL TO ORDER** – Ms. Dickerson called the meeting to order at approximately 6:00 PM.
2. **APPROVAL OF MINUTES**
 - a. **September 24, 2019** – Ms. Myers moved, seconded by Ms. McBride, to approve the minutes as distributed.

In Favor: Malinowski, Myers, Walker, Dickerson and McBride

The vote in favor was unanimous.
3. **ADOPTION OF AGENDA** – Ms. Dickerson stated the Coroner has another appointment, and has requested Item (e): “Coroner’s Office Position Conversion Request” be moved up on the agenda.

Ms. Myers moved, seconded by Ms. McBride, to adopt the agenda as amended.

In Favor: Malinowski, Walker, Dickerson and McBride

Present but Not Voting: Myers

The vote in favor was unanimous.
4. **ITEMS FOR ACTION**
 - a. **Coroner’s Office Position Conversion Request** – Mr. Watts stated approximately 2 ½ years ago, he met with Finance and the County Administrator concerning their part-time employees (i.e. Deputy Coroners) that they were paying as full-time employees. They were receiving the number of hours, but they were not receiving benefits. Therefore, the department was spending tens of thousands of dollars to train these individuals in order for them to receive their State and National certifications, and for them to be accredited and equipped, only to lose them to

other agencies because they were not receiving benefits. We came up with a plan to switch the 18 part-time employees to full-time employees at a rate of three (3) every 6 months. He stated they went through 12 conversions in the last budget process, but the notes were not carried over to this budget process. Therefore, in July, they proceeded with the conversion of three (3) part-time the employees, and it got caught in the quagmire, at that point. During the process of converting the three (3) positions, they lost one. There were three (3) more scheduled to be converted in January 2020, which would have completed the process. To him, it was a situation where we were losing money. Not only were they losing the money to train and equip these individuals, but because they were still considered part-time they would receive overtime pay. The full-time employees are exempt, but the part-time are not. In the long run, it is a money saving event for the County. He believes transferring them to full-time status outweighs the cost of continually training and losing employees to other agencies.

Mr. Hayes stated his concern, when he took the position in June 2017, this item was already in place, and he could find no record that Council had approved the positions, during the budget process. With there not being a record in Biennium I, there was no carryover. Also, when we talk about the fiscal impact, the part-time budget ended the year in the red.

Ms. Myers inquired if the part-time budget ended in the red because they should have been converted to full-time.

Mr. Hayes stated he was not a part of Biennium Budget I, so he does not know the math they did. He is concerned they did not properly budget for that because if they had the item would not have gone in the red. They ended up having to pull money from the salary line item to cover the negative balance in the part-time line item. He stated, when he did the projections for FY20, it looks like the part-time line item is going to end in a deficit of approximately \$100,000.

Ms. Myers stated, if we assume, for argument sake, it is an approved item, what is the budgetary impact, and is it something that is sustainable and affordable.

Mr. Hayes stated the first budgetary impact would be covering the deficit of \$100,000, and that is before the additional impact of other items (i.e. insurance).

Ms. Myers stated, for clarification, the recommendation is for Council to approve the request. Therefore, she is trying to get a handle on what that means for the budget, and where we are going to find the money.

Mr. Hayes stated they would have to use vacancy recovery funds to cover the deficit.

Ms. Myers inquired if the vacancy recovery fund is sufficiently healthy enough to cover what the Coroner is requesting.

Mr. Hayes responded he believes we should be able to handle that.

Ms. Myers stated it would be helpful for Council to have an analysis, as to where the money would come from, what the full fiscal impact would be, and how we plan to sustain it.

Mr. Malinowski inquired, of the parliamentarian, if there are any violations of Richland County policy, when employees are arbitrarily converted from part-time to full-time.

Mr. Smith stated that is more appropriate for the Human Resources to answer. He stated he is not familiar enough with the County's personnel policies and procedures, in terms of how that works. There may also be a question about whether it complies with the Fair Labor Standards Act, which he has not had an opportunity to address.

Mr. Malinowski stated he would like those answers before we move any further on this matter.

Mr. Brown stated the part that relates to the Fair Labor Standards Act would not have any impact on whether the County decides to move a position from part-time to full-time. He stated, as it relates to the Affordable Care Act, it would need to be determined, based on the number of hours the individual has routinely worked, if they have met the base period to be eligible for certain benefits.

Mr. Malinowski stated he wondered why Human Resources did not bring it to someone's attention. He stated there seems to be a lot of wrongs in this situation, and when he sees a quote that says, "...speaking to the coroner himself who told me that the funds have always been available in their PT object code they proceeded to pay these deputy coroners out of the PT object code but they essentially worked the same number of hours as the FTEs because 'he had to do something since you all were not going to give me the positions'". He considers that a brazen flaunting of the rules. In reviewing what Mr. Hayes gave us, it said, in looking at Biennium Budget I and II, he was unable to find any reference to any Coroner positions. They were there for the Public Defender, Solicitor, CASA, but nothing from the Coroner. This whole thing seems like a backdoor deal between the Coroner and the previous Administrator.

Mr. Walker inquired if this item is time sensitive.

Mr. Watts stated, as he explained, 12 positions have been converted over the past 2 ½ years. One of the three that was scheduled to be converted on July 1, 2019 was lost because the individual went to another agency. The other two were in the process of being converted, when HR noticed there were some issues with it not being in the budget. Therefore, they are still be paid as part-time employees. There are three additional positions that are scheduled for January 1, 2020.

Mr. Walker stated, because he feels like if some of these questions do not get answered, this thing is going to go sideways in a hurry. There are questions that have been posed to staff; he believes it would be prudent we have the answers to before we tried to make decisions. If we do, in the absence of those answers, it is not going to end very well.

Mr. Walker moved, seconded by Mr. Malinowski, to defer this item to the November committee meeting to allow staff to bring back to the questions that have been posed.

In Favor: Malinowski, Myers, Walker, Dickerson and McBride

The vote in favor was unanimous.

- b. Approval of Award for Engineering Services – Kneece Road Sidewalk Design – Mr. Malinowski moved, seconded by Ms. Dickerson, to approve for discussion.

Mr. Malinowski inquired if there is any type of list for sidewalk requests.

Mr. Eversmann stated, to his knowledge, he does not believe there is a master plan for sidewalks. We deal with sidewalk requests piecemeal from stakeholders (i.e. citizens, school districts, etc.). Once the request is received, the County Engineer then vets it. If there is merit to the project, it is forwarded to the CTC for consideration. If the CTC funds the project, then County staff moves ahead with the procurement.

Mr. Malinowski stated, on the bottom of p. 17 of the agenda packet, it lists several items they cannot put an accurate figure to what the costs will be. Yet, we have an initial estimated cost of \$820,000. These unknown costs would obviously drive the price higher. Under fiscal impact, it

states the CTC has awarded funding for both design and construction of the project. He inquired if that is for the \$820,000 cost, and if so, what happens when these other costs come in and drive the costs up.

Mr. Eversmann stated he believes the contingency was an effort to address those unknowns.

Mr. Staley stated there is a 20% contingency for the unknowns. If we go above that amount, we would go back to the CTC and requested additional funds.

Ms. Myers stated, Ms. Newton, Mr. Malinowski and herself, sat in a meeting where they discussed what Public Works' scope of responsibility was. In that meeting, they were told Public Works built sidewalks for the County, and the road responsibility for Public Works had been pushed to the Penny Tax. Her question is, if that is the case, why would we outsource this sidewalk, and not a Public Works' project.

Mr. Eversmann stated Public Works does not typically build a large sidewalk project. They will repair sidewalks, if sidewalks are damaged or buckled, but they may outsource those repairs too, if it is appropriate. Public Works does not, has not, and would not recommend utilizing in-house labor or design for a project of this magnitude.

Ms. Myers stated, for clarification, we do not use our in-house labor to design or build sidewalks or roads.

Mr. Eversmann responded in the affirmative.

Ms. Myers inquired as to what the Public Works Department's responsibilities are.

Mr. Eversmann responded they are responsible for maintenance and repair, as well as management of projects that are outsourced for design and/or construction.

Ms. Myers stated this is a design/build outsourcing. She stated we are going to pay somebody to manage this.

Mr. Eversmann stated what is before Council is professional services for design, which includes the surveying, permitting and design work.

Mr. Staley stated the \$820,000 encompasses the design and construction. They have not identified a contractor because they have to have design plans prior to the project being bid out.

Ms. Myers stated she is asking where the County's Public Works Department fits in, with regard to all these projects. She stated we are transitioning the Penny in-house, and if what we are saying is there are no projects this team is responsible for, what is the responsibility of the Public Works Department.

Mr. Eversmann stated Public Works is basically maintenance and repair, when it comes to transportation infrastructure, whether paved roads or sidewalks. In this case, we are looking for management of a project that will be done using engineering firms for the design, and, in the future, private construction contractors for the construction.

Ms. Newton stated, for clarification, the new sidewalks are all done with CTC funding.

Mr. Staley responded in the affirmative.

Ms. Newton stated she would be interested, apart from this, in knowing what, if any, best practices there are, in terms of how we approach sidewalks. She stated sidewalks are a frequent topic of conversation in her area, so maybe she needs to tell her people to get in line and request sidewalks more frequently. If there is any information on how might be able to address that more proactively, she would appreciate it.

Ms. McBride stated we prioritize sidewalks for transportation and infrastructure for the roads, and she thought we were supposed to prioritize these sidewalks and then decide on them, as well. She inquired if they were a part of a prioritization process that Council approved.

Mr. Staley stated, historically, it is based on a first come, first serve call-in. Public Works receives a request from someone asking for a sidewalk, and Public Works' staff then looks at the proximity of the sidewalk to schools, if the sidewalk will connect schools to a park, of if it makes sense to have a sidewalk there for safety reasons. If it meets those criteria, they forward the request to the CTC for approval or denial. Recently, the CTC has approved the requests.

Ms. McBride stated she is concerned because when she first came on Council she was trying to get a sidewalk, and she was told the County did not do sidewalks. Now, she is being asked to vote for sidewalks, so this is very confusing to her.

Mr. Walker stated there seems to be a tight target group, as far as the companies that are bidding on these projects. He inquired if we are that limited in this market. He stated, to see the same 7 names back-to-back in 2 projects, there seems to be a layer between the dollars and the execution of the work. He inquired if we know if this contractor executes in-house the work scoped, or do they sub it out to someone else to do, and they participate simply as a broker.

Ms. Wladischkin stated the contractors typically propose a team approach. There is not many firms, unless it is a large firm, which could have all of the capabilities in-house, so they would propose sub-consultants under themselves.

Mr. Walker stated this is specific to the engineering scope. We are about to award a \$135,000 engineering contract. He would expect that to be handed directly to an engineering firm that specializes in engineering. He inquired if we have vetted that. The other thing that he looked at was the overall budget of this project. When he realized \$451,000 was going into the ground and the rest was buried in soft costs that it seemed to be a recurring theme. He thinks this is somewhere we can improve. He wants to understand if this particular entity self performs this work because this is specifically an engineering scope. He stated he knows 20 different engineering firms that could scope this for us.

Ms. Wladischkin stated they do have engineers. She stated she could get a list of their sub-consultants, if that information would be useful.

Mr. Staley stated they are also a part of the OET on the Transportation Penny projects.

Mr. Walker stated he is aware of that. Hence his diligence. He wants to make sure that as many dollars, as possible, go in the ground, on behalf of the constituents, and all of these soft costs and layered integral consultants are becoming problematic.

Mr. Malinowski inquired if the evaluators, in both projects, were the same persons.

Ms. Wladischkin stated, on this occasion, they were because the projects were done at almost the same time.

Mr. Malinowski inquired if what the evaluators are evaluating these businesses on is the same in each case. On the 2nd sidewalk project, the evaluators consistently rated the same businesses at, or below, what they evaluated them as on the 1st one. For example, on the 1st one, DESA's total was 277. On the 2nd one, it was 262, which is quite a big difference. He inquired why there would be a difference, if the evaluators were rating them based on their knowledge of the businesses, and what they are providing.

Ms. Wladischkin stated the evaluators are evaluating the individual proposals that the companies presented. She stated it could be that, in a certain situation, a company better addressed a particular area.

Ms. McBride inquired if the evaluators are staff members or are they external evaluators.

Ms. Wladischkin stated the evaluators could be different for each solicitation. In this case, the 3 evaluators were County staff. They have used external evaluators, in certain circumstances, if there is a particularly interested stakeholder or have a certain area of expertise.

Ms. McBride inquired what staff members evaluated the proposals.

Ms. Wladischkin stated this was Public Works' staff.

Mr. Jackson inquired if it is a blind review.

Ms. Wladischkin responded that it is not.

Mr. Jackson stated, by way of explanation, when you see the name of a company, and you are familiar with them, you may make some assumptions that they can do certain things. If you were not familiar with them, you would not make those assumptions, so the rating may be a little different.

Ms. Dickerson stated she is concerned about how these sidewalks were prioritized, and that we keep outsourcing to the same companies. She wants to make sure that everyone has the opportunity to participate.

Ms. Myers inquired if there is a policy by which we determine where we put sidewalks, and how people apply for a sidewalk.

Mr. Staley stated, historically, the requests have come through the Ombudsman's One Stop System.

Ms. Myers stated, for clarification, we do not have an overarching County plan that tells us where we should be building sidewalks. We wait for citizens to come to us about sidewalks.

Mr. Staley responded in the affirmative.

Ms. Myers suggested, going forward, it would be helpful if we had a process. Then, people would understand what to do to get a sidewalk in their area. In addition, if we had a cost per foot to build a sidewalk, we would be in a better position to evaluate whether what we are doing is reasonable and fair.

Ms. Dickerson stated she does not want to be caught in the trap of having a contingency, and when we get midway in the project we do not have the funding to complete it. She does not understand how these 2 sidewalk projects take priority over the other sidewalks that we have been trying to get for a long time.

Mr. Walker made a substitute motion, seconded by Mr. Malinowski, to deny the award to DESA and to have the County Administrator work with the Public Works Department to come back to us, at the committee level, with a policy for sidewalk ranking, implementation and construction, as well as, a recommendation on capturing savings by utilizing the Public Works Department moving forward.

Ms. Myers inquired if Mr. Walker's motion is suggesting that we give up the CTC funding for the sidewalks.

Mr. Walker stated the motion was intended to deny the award, as currently presented, and have the Administrator work with internal staff to come back with a policy on how, moving forward, to implement procedures for construction of sidewalks. He suggested to amend the motion to defer the award of the contract.

Mr. Livingston stated, for clarification, the CTC could decide to do something different with these funds.

Mr. Eversmann responded in the affirmative.

Mr. Walker stated, as mentioned earlier, the CTC has recently been willing to do most projects, as presented. Therefore, his motion stands, as amended.

Mr. Smith stated, as he understands this, this is a request to approve this particular contractor. He was trying to find out, from staff, whether it was the denial of the contract to the particular contractor that was recommended. He does not believe it affects the funding.

Mr. Eversmann stated he does not know if it affects the funding. The funds have been awarded, by the CTC, to the County, for the express purpose of these 2 sidewalk projects. They went through the County procurement process for professional services, and came forward with a recommendation for a design firm.

Mr. Smith stated, if Mr. Walker's motion is to deny the contract, there is no requirement that you award it, based on staff's recommendation. It is his understanding; the intent of the motion is to use the CTC funding for the purpose for which they were given to the County, which is to build sidewalks, but not to use this particular contractor. In addition, to have the Administrator to go back and work with staff to create a policy about how we are going to go forward with prioritizing these sidewalks and having our Public Works Department be involved in doing various things, as it relates to these projects.

Ms. Myers made a second substitute motion, seconded by Mr. Walker, to defer this item to the November committee meeting, in order to receive answers to the questions raised, and ensure we do not jeopardize the funding.

In Favor: Malinowski, Myers, Walker, Dickerson and McBride

The vote in favor was unanimous.

- c. Approval of Award for Engineering Services – Longreen Parkway Sidewalk Design – Ms. Myers moved, seconded by Mr. Walker, to defer this item to the November committee meeting.

In Favor: Malinowski, Myers, Walker, Dickerson and McBride

The vote in favor was unanimous.

- d. Quitclaim Deed for Right-of-Way – 1300 Block of Marion Street – Lofts Apartments – Ms. Myers moved, seconded by Ms. Dickerson, to forward to Council with a recommendation to approve the quitclaim deed.

Mr. Malinowski stated, in reviewing the briefing document, the attorneys said they have gone back for years. They do not feel they have any title problem, given the passage of time. Their review determined that the right-of-way was a private right-of-way, and was never a public right-of-way. That being the case, he does not understand why they are coming to Council for action.

Mr. Smith stated, as he understands it, a portion of what Mr. Malinowski said is correct. In addition to that, it appears their research also shows there is an 8' X 8" section of the right-of-way in the County's name. To the extent, that Richland County has any interest in this property, we are giving up whatever interest we may or may not have in the property. As he understands it, when the IRS granted a Historic Preservation Easement to Historic Columbia, the question came up as to whether this was or was not a public right-of-way. We are simply assisting them in clarifying that question.

Mr. Malinowski inquired how much the 8' X 8" is worth.

Mr. Smith stated he could not tell you how much the right-of-way is worth.

In Favor: Myers, Dickerson and McBride

Opposed: Malinowski and Walker

The vote was in favor.

- e. Hospitality Tax Allocation Process – Mr. Walker moved, seconded by Mr. Malinowski, to defer this item until the November committee meeting.

In Favor: Malinowski, Myers, Walker and Dickerson

Present but Not Voting: McBride

The vote in favor was unanimous.

5. **ADJOURNMENT** – The meeting adjourned at approximately 6:53 PM.