



Richland County Council
Administration and Finance Committee
November 19, 2020 –6:00 PM
Zoom Meeting

COMMITTEE MEMBERS PRESENT: Joyce Dickerson, Chair, Bill Malinowski, Yvonne McBride, Dalhi Myers

OTHERS PRESENT: Paul Livingston, Chakisse Newton, Allison Terracio, Michelle Onley, Ashiya Myers, John Thompson, James, Hayes, Ashley Powell, Dwight Hanna, Angela Weathersby, Kerry L. Smyer, Ronaldo Myers, Clayton Viognier, Jennifer Wladischkin, Randy Pruitt, Stacey Hamm, Michael Maloney, Brad Farrar, Hayden Davis, Leonardo Brown, Quinton Epps, Brian Crooks, Dale Welch, Sandra Haynes, Bill Davis, Brittney Hoyle-Terry, Tamar Black, Tariq Hussain and Geo Price.

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

In Favor: Malinowski, Dickerson, McBride

Not present: Walker, Myers

The vote in favor was unanimous.

3. **ADOPTION OF AGENDA** – Mr. Malinowski moved, second by Ms. McBride, to adopt the agenda as published.

In Favor: Malinowski, Dickerson, McBride

Not present: Walker, Myers

The vote in favor was unanimous.

4. **ITEMS FOR ACTION**

1. **Sale of Property located on Farrow Rd. (Tax map Numbers #R17300-02-10 and #17300-02-33** - Ms. Dickerson stated staff presented four options for the committee to choose from.

Mr. Malinowski moved, seconded by Ms. McBride, for option four to instruct staff to proceed in a different manner.

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Mr. Malinowski stated Council passed a set of rules and requirements on how to divest the County of property, and none of that was taken into consideration here. It is his understanding, we do not have a list of surplus property at this time. Staff needs to create such a list, in conjunction with the council members whose district the property lies in, and not accept unsolicited contracts to purchase property, which we are not sure are surplus.

In favor: Malinowski, Dickerson, McBride, Myers

Not Present: Walker

The vote in favor was unanimous.

2. **Sewer Availability Letter for Bunch at Garners Ferry Road Development** – Ms. Myers moved, seconded by Mr. Malinowski, to approve this item.

Mr. Malinowski stated, on page 30 of the agenda, it talks about completion of the Southeast Sewer and Water Expansion Project, but if we have unexpected delays, he believes it needs to be noted in here the county is not held accountable. He also believes there need to be a hold harmless or a not-at-fault agreement, in the event of delays and other problems that may come about. Lastly, a MOU with the development group, as a condition of moving forward.

Ms. Myers stated she agrees with Mr. Malinowski's concerns. She thought it should be standardized through the Legal Department. If the Legal Department were responsible for providing this document, rather than Bunch providing it to us, and then staff moving to approve what Bunch has provided. She offered a friendly amendment to request the Legal Department to take this document and generate what would be a Richland County standard document for this type of service.

Mr. Malinowski accepted Ms. Myers' friendly amendment.

In favor: Malinowski, Dickerson, McBride, Myers

Not Present: Walker

The vote in favor was unanimous.

3. **Annual Leave Rollover** - Mr. Malinowski moved, second by Ms. Myers, to approve Items (C) and (D).

Ms. McBride inquired, as it relates to sick leave, if this is something consistently being done throughout the State, or counties, regarding COVID-19. She knows many did not get to take their annual leave or vacation, but many were at home. It is her understanding, this will not cost the County, but she is concerned about having adequate staffing when we go back to work.

Mr. Hanna responded, as it relates to both annual leave and sick leave, additional funding would not be required. We are not proposing anything that would increase funding. We are not proposing to change the annual leave policy, but to permit employees to rollover one additional accrued leave week, which would expire June 21. In regards to whether or not other employers

are doing it, he included information in the packet. Lexington County is not doing this. The City of Columbia stated they were thinking about it, and is something they should do, but they have not. Looking beyond South Carolina, some employers are doing two weeks and some are doing 10 days. The intent of this item was to encourage employees to take leave because we believe it is good for their mental wellness. This leave would have to be approved by a supervisor or management. There could not be a situation where the department needed them to work, and the employee take the rollover week.

Ms. McBride inquired if that applied with all leave.

Mr. Hanna responded in the affirmative.

In favor: Malinowski, Dickerson, McBride, Myers

Not Present: Walker

The vote in favor was unanimous.

4. **Sick Leave Policy Amendment** – This item was taken up with item 4(c)
5. **Repeal and change a portion of Richland County Ordinance Article XI, INQUIRIES AND INVESTIGATIONS, Sec. 2-652. Conduct of investigations. (a)(1), that starts with, "Commence any official investigation...". In addition, have the Richland County Legal Department in conjunction with the Richland County lobbyist contact SC State Legislators and the South Carolina Association of Counties to request Section 4-9-660 of the South Carolina Code of Laws be repealed/changed.** – Ms. McBride moved, seconded by Mr. Malinowski, for discussion.

Ms. McBride requested clarity on this item.

Mr. Farrar stated he was not sure of the intent. If you look at the agenda material, there was one section proposed to be eliminated from State law, which is Section 4-9-660. Obviously, the State would have repeal its own statute, but what it says is, other than for purposes of inquiry, Council members should deal with the Administrator for matters dealing with employees under the Administrator's control. If you do that, you could potentially have a situation where you're changing the form of government from a Council-Administrator form of government to a Council form of government, without a referendum.

Ms. Myers noted she agrees with Mr. Farrar. To the extent that we have a Council-Administrator form of government, there is a reason the Council members are supposed to speak to the Administrator, and not instructing staff and interrogating them about their jobs. She believes if we are going to do this it should be done by referendum.

Mr. Malinowski stated the reason he brought this forward, because when you look on page 53 under 2-652(a), it says it is a violation of law for any member of Council to individually do any of the following, and number one says, you are not allowed to commence any investigation or utilize manpower or facilities of the County. Basically, it is saying if you see something you believe is a violation of the law, you are not allowed to report it to law-enforcement. As an

individual citizen, he thought you would have the right to report it, whether you were an elected official or not. That is why the Legal Department providing the following language: *“Notwithstanding the foregoing, any councilmember may, in his individual capacity as a citizen of Richland County, file a report related to county officers, employees, or official business, with the appropriate law enforcement authorities...”* It is not for the individual to go run around questioning employees or anyone else. If he sees someone commit what he believes to be a violation of the law, be they a County employee, an elected official, or just a regular person out in the street, he should be entitled to report it. The way he interrupts the law right now, it does not allow him to do so, it forbids him from doing that. Especially if it involved the reporting of the violation of the law within the County Government.

Ms. Dickerson stated that in her year of being on Council, this has been somewhat of a problem, but she does not know how to address it.

Mr. Farrar stated, where this has the potential to get confusing is, if we have the generic use of the word “investigation”. If you are talking about an administrative inquiry, that is probably the origin of this 2-652, because you are talking about using official resources. If it was for an administrative purpose, you would have to go through the appropriate procedures with the County. When you get to Mr. Malinowski’s point is, you want to have a chilling effect on anybody when it comes to talking with law enforcement for any legitimate purpose because you can get into obstruction of justice. It ought to be emphasized that anybody, councilmember, citizen, staff, etc. has the right, as a US citizen, to talk to law enforcement agencies about anything that is appropriate. He believed 2-652 originally was intended to speak to an Administrative investigation.

Ms. Myers stated, with the way we have been doing things at Richland County, we are not asking for an administrative review. We are not asking for review of policies. We are criminalizing what anybody does with which we do not agree. She believes it is reprehensible. If people have administrative questions, they should ask administrative questions. We have a lot of people who get paid to ask administrative questions. Before you go hauling off calling people criminals, there should be some process, and it should not be that we are now codifying. Rather than people following a process and asking questions, gathering evidence and providing fairness and due process, we allow folks to decide they do not like the way this is done; therefore, it is illegal. We have essentially set up a circular firing squad. We are building in even more dysfunction. What we need to be looking at is the administrative side of the house, which is what we control, and is literally falling down around our ears, to determine if the policies and procedures are in place, or need beefing up.

Mr. Malinowski responded he and Ms. Myers have two different opinions. He believes she is taking out of context what he was trying to do. It had nothing to do with any individual. It had to do with reading these laws over when they came to his attention, and ensuring an individual would have their right to go to law enforcement. The way he sees it right now, they don’t.

In favor: Malinowski

Opposed: Dickerson, McBride, Myers

Not Present: Walker

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The motion fails

6. **I move to restore \$37,561 to the Richland County Conservation Program Historic Preservation Grants from the Richland County Conservation Commission Reserve Account to be allocated in the FY21 grants program** – There was no motion made.

Ms. Myers moved, seconded Ms. McBride, to allow Councilwoman Terracio to provide comments on this item for the record.

Ms. Terracio stated she submitted this motion because she believed it was an unintended consequence that during the budget process, where there was a motion to approve the lesser of two amounts in the two subsequent years. In the Conservation Commission there is a static \$250,000; however, they divide those into two different buckets. One would be for historic preservation and one is for conservation. Because those two buckets fluctuated, year-to-year, it resulted in a reduction in one bucket. This does not really change any budget amounts, so the \$250,000 is still going to the Conservation Commission. They are just stuck not being able to use it because of that motion during the budget season.

7. **Move to engage a third party design-build company to begin work on the \$2m SE Richland County multi-purpose facility, as approved by Council in 2018. The funds were earmarked and approved, but RC staff has not undertaken any planning or construction of the Council-approved project by the end of November, 2020** – Ms. Myers moved, seconded by Mr. Malinowski, to include this item in the overall Renaissance Plan discussions.

In favor: Malinowski, Dickerson, McBride, Myers

Not Present: Walker

The motion in favor is unanimous.

8. **Move to remit the \$300,000 private donation (negotiated by Councilwoman Dalhi Myers and Councilman Chip Jackson) earmarked for the Taylors Community to Richland County Parks & Recreation under an IGA, to be designated as funding for the Taylor's Community Park, promised and fully funded, as part of an Economic Development plan for the Reign Community on Shop Road before December 31, 2020. These funds were donated beginning in 2017 prior to the construction of the 2,000 bed new Reign Community, which is now complete. RC staff has not begun planning or construction on the fully funded park** – Ms. Myers moved, seconded by Ms. Dickerson, to have the funds given to Recreation Commission, so the park can be constructed for this community.

Ms. McBride stated, it is her understanding these are private funds, so how will the County be able to transfer them. She noted she previously had money designated to the Recreation Commission, and no one knows where the funds went. She is concerned if the money is provided to them that it will be used for what we want it to be used for.

Ms. Dickerson noted she had 11 acres purchased, and she is not sure where that is either. Since there have been changes in the leadership, a lot of things have fallen through the cracks.

Ms. Myers stated, when the Reign Community came in and wanted to build the student center, the community was not interested in it. She and Mr. Jackson began talking with the community. She approached Reign and requested they donate money to the County, so that the County could then build the community a park, and a buffer in exchange for allowing the Reign Community to be built. The Reign owners agreed to give \$300,000 to the community, by way of the County. At that time, Tracy Hegler was here and she was involved in the process, and said, if we had the money, the County could build it. The 2,000 bed dormitory has been built, and the County has not even met with the community. To the extent that this is not County money, and it was given to this community in exchange for all the noise, traffic and additional student influx in their community. If we are nervous that parks and rec will take the money, and not immediately start a build out either, then maybe we give it to a third-party. This was a direct gift to that community that has not been realized.

Mr. Malinowski noted, on page 68 of our agenda, it says that staff was unable to locate Council's actions that acknowledged the donation or gave staff direction to move the project forward. Then on page 70, there are minute showing a discussion of the \$300,000. Midway through it refers to it as an economic development plan for that community. There may be additional information from the Economic Development Committee meetings. He recalls Ms. Myers and Mr. Jackson negotiating that and putting a park there. If the County cannot do it, then we need to do something else to get that money to where it is supposed to be used. We may need some legal input to figure out how to do it.

Ms. McBride stated we need more clarity of where the funds are supposed to go and ensure they go where they are supposed to.

Ms. Myers moved, seconded by Mr. Malinowski, to instruct the Legal Department to advise Council on what steps need to be taken to deliver the park or the \$300,000 to the Taylors Community, which was negotiated on their behalf.

In favor: Malinowski, Dickerson, McBride, Myers

Not Present: Walker

The motion in favor is unanimous.

9. **Emergency Services Department – Fire Truck Purchase** – Mr. Malinowski moved, seconded by Ms. Myers, to approve both items (i) and (j) for the Emergency Service Department.

In favor: Malinowski, Dickerson, McBride, Myers

Not Present: Walker

The motion in favor is unanimous.

10. **Emergency Services Department – Purchase Orders** – This item was approved in the previous item.

11. **McEntire Joint National Guard Base (MJNGB)/South Carolina Air National Guard (SCANG)**

- Military Construction and Cooperative agreement (MCCA) to connect to the Southeast Sewer and Water Expansion Service – Ms. Myers moved, seconded by Ms. McBride, to approve this item.

Ms. Myers noted this is a big win for McEntire and the County. It is excellent that we are at the point where we can connect them. They are the only institution in the County that self provides. She thanked the Utilities staff for getting this done in record time.

Mr. Malinowski inquired if Legal has reviewed staff's recommendation to accept the intergovernmental agreement and Military Construction and Cooperative agreement (MCCA) Mr. Farrar responded he has seen many and documents submitted in connection with this one, and nothing that was disturbing, or out of the ordinary with the documents he reviewed.

Mr. Malinowski inquired about the language that says, there shall be no charges for tap fees for connection to the system.

Mr. Davis responded the reason we are not charging for tap fees is that they are paying for the construction of the connection, and that was a part of the original agreement. He understood staff and Council discussed bypassing the tap fees.

Mr. Malinowski noted, on p. 152, the January 15, 2020 date is highlighted, which has already gone by. He inquired if this is something that will be redone.

Mr. Davis responded it was highlighted to indicate that we need to make that change once this is approved by Council.

Mr. Malinowski stated, for clarification, the timeframes are being changed, but we are still moving forward with it.

Mr. Davis answered in the affirmative.

In favor: Malinowski, Dickerson, McBride, Myers

Not Present: Walker

The motion in favor is unanimous.

12. Atlas Road Community Park Professional Services Contract – Ms. Myers moved, seconded by Ms. Dickerson to approve this item.

Mr. Malinowski stated p. 163 it has additional fiscal budget to consider, but there is no information, and he wonders why not.

Mr. Brown responded, right above that line, it says funds are available in Professional Services.

Mr. Malinowski stated there are no dollar amounts. On the next page, in the second sentence, it says the Richland County Recreation agrees to design, manage, and construct this park. Yet, in the fourth paragraph states, staff procured Summit Engineering Lab and Testing to conduct the Phase I Environmental Site Assessment. If RCRC is doing it all, why is Richland County staff involved with this phase.

Mr. Viognier responded the contract amount is for \$200,000. He will add that to the briefing document going forward. The procurement of the environmental site assessment was simply a measure to ensure there were no recognized environmental conditions on the property in order for the Recreation Commission to begin design and construction of the park.. Funds were were available in our CDBG administration funds for this purpose.

Mr. Malinowski noted the way he read the information is there is a specific amount of money that is going to be provided for this park. To include all the expenses that are incurred in the development and building of it. Now, he was told staff took money from a different pot to pay for this portion here. So why take another sum of money to use for the project, if in fact they are given a lump sum to do the project with.

Mr. Voignier responded the environmental site assessment was not considered part of the design and construction of the park.

Ms. Myers stated, for clarification, this park was one of the parks that she was working on in District 10 with Tracy Hegler. The money that is not being discussed was encumbered when Valeria Davis was with Richland County, and the environmental site assessment was meant to be done two years ago. This project and the item we discussed previously were meant to be under an IGA with the Recreation Commission, so they could build them at the same time.

Mr. Malinowski noted, on p. 166, 1.4 Scope of Work Condition, it says sub-recipient, which is the Recreation Commission, in accordance with the terms of this contract, shall perform all professional services and responsibilities required for the completion of the contract. Then, if you go to p. 170, 2.7 Environmental Review, the sub-recipient agrees the environmental review for this activity will be carried out. So it is up to them to carry it out, not some aspect of staff at Richland County Council. Again, how is this not a violation of this contract and even if you want to give them credit for doing that I believe they should be charged out of the funds they are getting and reimburse the Richland County CDBG funds, which could be used elsewhere.

Mr. Viognier stated he understood the environmental site assessment had already been completed. If it is the will of Council to have the Recreation Commission reimburse us for those funds, it would be a decision of Council.

Mr. Malinowski inquired if we will be provided with an updated project timeline, since a

lot of the items start with October 2020.

Mr. Viognier stated the timeline was provided by the Recreation Commission, but he can reach out to them for an updated timeline.

Mr. Malinowski inquired if this vacant property.

Mr. Viognier responded in the affirmative.

Mr. Malinowski stated, on p. 313, Phase I Key Site Manager/Owner Questionnaire, provided by Summit. There are 35 items in the questionnaire, 26 are checked unknown to them. Some of these things need to be confirmed prior to work. It looks like somebody sat in the office and filled this out, and did not make any effort to go out and find out simple things (i.e. any significant areas of stained soil; are there any fill pipes protruding from the ground; any lead paint operations and maintenance program in place at the property) If somebody would have gone there and looked at the property he is sure they could answer “no” to these. It is obvious. 26 out of 35 is unknown. He thinks we need them to go back and do this properly, so that we actually have some clarity a little bit more understanding of what, if anything is there.

Ms. Myers made a substitute motion, seconded by Mr. Malinowski, to keep this in committee until the next meeting, so the questions can be answered.

In favor: Malinowski, Dickerson, McBride, Myers

Not Present: Walker

The motion in favor is unanimous.

5. **ITEMS PENDING ANALYSIS: NO ACTION REQUIRED**

a. **Utilities Delegated Review** - No action was taken.

6. **ADJOURNMENT** - The meeting adjourned at approximately 7:00 PM.