



# **RICHLAND COUNTY COUNCIL**

## **DEVELOPMENT AND SERVICES COMMITTEE**

Jim Manning	Valerie Hutchinson	Gwendolyn Kennedy (Chair)	Bill Malinowski	Seth Rose
District 8	District 9	District 7	District 1	District 5

**JUNE 26, 2012  
5:00 PM**

**2020 Hampton Street**

### **CALL TO ORDER**

### **APPROVAL OF MINUTES**

1. Regular Session: May 22, 2012 (pages 4-6)

### **ADOPTION OF AGENDA**

### **ITEMS FOR ACTION**

2. Roadway Lighting on State Right of Ways for Commercial Enhancement (page 8)
3. Delete County Review Fees for Family Property (pages 10-14)
4. Direct Staff to contact Property Owners on Council Initiated Rezoning (pages 16-17)

5. John Hardee Express Way Project Funding (pages 19-23)
6. Review of the Comprehensive Plan to ensure consistency (pages 25-26)
7. Broad River Sewer Monthly User Fees (pages 28-30)
8. Community Residential Care Facility Resolution to Richland County Legislative Delegation and SC General Assembly (pages 32-36)
9. Road Right of Way and Acceptance Policy (pages 38-41)

**ITEMS PENDING ANALYSIS: NO ACTION REQUIRED**

10. a. Curfew for Community Safety (Manning-February 2010)

**ADJOURNMENT**



# Richland County Council Request of Action

## **Subject**

Regular Session: May 22, 2012 (pages 4-6)

## **Reviews**

**MINUTES OF**



**RICHLAND COUNTY COUNCIL  
DEVELOPMENT AND SERVICES COMMITTEE  
TUESDAY, MAY 22, 2012  
5:00 P.M.**

*In accordance with the Freedom of Information Act, a copy of the agenda was sent to radio and TV stations, newspapers, persons requesting notification, and was posted on the bulletin board located in the lobby of the County Administration Building.*

=====

**MEMBERS PRESENT**

- Chair: Gwendolyn Davis Kennedy
- Member: Valerie Hutchinson
- Member: Bill Malinowski
- Member: Jim Manning
- Member: Seth Rose

**ALSO PRESENT:** Kelvin E. Washington, Sr., Norman Jackson, Paul Livingston, L. Gregory Pearce, Jr., Damon Jeter, Milton Pope, Tony McDonald, Sparty Hammett, Roxanne Ancheta, Randy Cherry, Brad Farrar, John Hixon, Amelia Linder, Tracy Hegler, David Hoops, Bill Peters, Dan Cole, Daniel Driggers, Geo Price, Rodolfo Callwood, Monique Walters, Michelle Onley

**CALL TO ORDER**

The meeting started at approximately 5:05 p.m.

**APPROVAL OF MINUTES**

**April 24, 2012 (Regular Session)** – Mr. Rose moved, seconded by Ms. Hutchinson, to approve the minutes as distributed. The vote in favor was unanimous.

**ADOPTION OF AGENDA**

Mr. Malinowski moved, seconded by Mr. Rose, to amend the agenda to take up the items from the previous committee meeting in the order that they appeared on that agenda and then take up the new items. The vote in favor was unanimous.

**ITEMS FOR ACTION**

**Curfew for Community Safety** – Mr. Manning moved, seconded by Ms. Hutchinson, to forward this item to Council with a recommendation for approval. A discussion took place.

Mr. Rose made a substitute motion, seconded by Mr. Malinowski, to hold this item in committee to review alternatives and the possible need for similar ordinances in other Council districts. The vote was in favor.

Mr. Rose moved, seconded by Ms. Hutchinson, to reconsider this item. The vote in favor was unanimous.

Mr. Rose moved, seconded by Mr. Malinowski, to amend the substitute motion to have the item placed on the July committee meeting for action. The vote in favor was unanimous.

**Engineering and Architectural Drawing Requirements** – Mr. Malinowski moved, seconded by Ms. Hutchinson, to forward this item to Council with a recommendation to approve the amendments to Section 26-54, so as to remove the requirement of a sketch plan. A discussion took place.

The vote in favor was unanimous.

**Roadway Lighting on State Right of Ways for Commercial Enhancement** – Mr. Rose moved, seconded by Mr. Malinowski, to hold this in committee and invite Mr. Rick Patel and Mr. Mims to attend the June committee meeting. The vote in favor was unanimous.

**Tree Canopy Ordinance and Inventory Motion** – Mr. Malinowski moved, seconded by Mr. Rose, to forward this item to Council with a recommendation to forward this item to the Development Roundtable immediately following the conclusion of the green code item in July.

Ms. Hutchinson offered a friendly amendment to begin the process to secure a consultant to conduct the study. Mr. Malinowski accepted the amendment.

The vote in favor was unanimous.

**Utilities Crossing Conservation Easement in Richland County** – Mr. Malinowski moved, seconded by Ms. Hutchinson, to direct staff to draft an ordinance restricting underground utilities, specifically sewer, from crossing conservation easements. The vote in favor was unanimous.

**Broad River Rowing Center** – Mr. Malinowski moved, seconded by Ms. Hutchinson, to forward this item to Council a recommendation that Mr. Livingston, Legislative Delegation, Sheriff's Department and staff meet and bring back a recommendation to full Council. The vote in favor was unanimous.

**Review the process of the Development Review Team** – Mr. Manning moved, seconded Ms. Hutchinson, to accept this item as information. The vote in favor was unanimous.

**Bidding of Solid Waste Collection Services in Council District 11** – Mr. Malinowski moved, seconded by Mr. Rose, to forward this item to Council a recommendation to bid these solid waste requirements. The vote was in favor.

**Expansion of boundaries for the proposed Spring Hills Master Plan Area** – Mr. Malinowski moved, seconded by Mr. Manning, to forward this item to Council with a recommendation to approve the expansion of the Spring Hill Master Plan boundaries and additional consultant fees. The vote in favor was unanimous.

**Purchase of Asphalt Paver** – Mr. Manning moved, seconded by Ms. Hutchinson, to forward this item to Council with a recommendation to approve the request to purchase the asphalt paver for the Roads and Drainage Division of the Department of Public Works. The vote in favor was unanimous.

**Purchase of Motorgrader** – Mr. Manning moved, seconded by Ms. Hutchinson, to forward this item to Council with a recommendation to approve the request to purchase the motorgrader for the Roads and Drainage Division of the Department of Public Works. The vote in favor was unanimous.

**Purchase of Vector Vacuum Jet Rodding Truck** – Ms. Hutchinson moved, seconded by Mr. Manning, to forward this item to Council with a recommendation to approve the request to purchase the vacuum truck for the Roads and Drainage Division of the Department of Public Works. The vote in favor was unanimous.

**Delete County Review Fees for Family Property** – This item was deferred until the June Committee meeting.

**Direct Staff to Contact Property Owner on Council Initiated Rezoning** – This item was deferred until the June Committee meeting.

**John Hardee Express Way Project Funding** – This item was deferred until the June Committee meeting.

**Review of the Comprehensive Plan to ensure consistency** – This item was deferred until the June Committee meeting.

## ADJOURNMENT

The meeting adjourned at approximately 6:02 p.m.

Submitted by,

Gwendolyn Davis Kennedy, Chair

The minutes were transcribed by Michelle M. Onley

# Richland County Council Request of Action

**Subject**

Roadway Lighting on State Right of Ways for Commercial Enhancement (page 8)

**Reviews**



**RICHLAND COUNTY**

**Department of Public Works**

**C. Laney Talbert Center**

**400 Powell Road**

**Columbia, South Carolina 29203**

**Voice: (803) 576-2400 Facsimile (803) 576-2499**

**<http://www.richlandonline.com/departments/publicworks/index.asp>**



**MEMO**

To: D&S Committee of Council  
From: David Hoops, Director of Public Works  
Re: Roadway Lighting on State right of ways for Commercial Enhancement  
Date: June 20, 2012

Staff has invited Mr. Dibs (from the Hotel Association) and Mr. Mims (an Electrical Contractor) to the June 26, 2012 D&S committee meeting to make a report and entertain any questions from Committee members.

Item# 2



# Richland County Council Request of Action

**Subject**

Delete County Review Fees for Family Property (pages 10-14)

**Reviews**

## Richland County Council Request for Action

Subject: Amending “Section 26-224, Certain subdivisions exempt from road standards” (family property) so as to delete the requirement of review fees.

### **A. Purpose**

County Council is requested to consider a motion to amend Section 26-224, to remove the requirement of review fees when an applicant proposes to subdivide what is commonly referred to as “family property”.

### **B. Background / Discussion**

On November 15, 2011, County Council enacted Ordinance No. 064-11HR, which allows the planning director, or his/her designee, to exempt subdivisions from the road construction requirements of Sec. 26-181 if the property is being transferred to the owners’ immediate family members or is being transferred by will or intestate succession or forced division decreed by appropriate judicial authority. Subsection (e) includes this provision:

“the proposed subdivision of land shall not be exempted from any other minimum standard set forth in this chapter, including any and all review fees, minimum lot size, etc.”

On April 17, 2012, a motion was made by the Honorable Kelvin Washington, as follows:

“I move to direct staff to draft an ordinance that would delete any county review fees for family property (Section 26-224 of the Land Development Code), retroactive to November 15, 2011”.

A draft ordinance is attached that deletes the review fees.

### **C. Financial Impact**

The County would not receive the fees that it would have if the ordinance is not amended. For example, typical review fees are \$400 per application, and if the Planning Department received 5 applications per year, the loss of revenue would be \$2,000 per year. However, this amount could vary from year to year.

### **D. Alternatives**

1. Approve the amendment to Section 26-224, and delete the requirement of review fees retroactive to November 15, 2011.
2. Do not approve the amendment, thereby requiring a \$400 review fee to be paid when an applicant submits a plan to subdivide “family property”.

**E. Recommendation**

This request is at Council’s discretion.

Recommended by: Honorable Kelvin E. Washington, Sr.      Date: April 17, 2012

**F. Approvals**

**Finance**

Reviewed by: Daniel Driggers      Date: 5/1/12  
 Recommend Council approval       Recommend Council denial  
 Council Discretion (please explain if checked)  
Comments regarding recommendation:

This is a policy decision for council discretion. The financial impact is negligible.

**Planning**

Reviewed by: Tracy Hegler      Date:  
 Recommend Council approval       Recommend Council denial  
 Council Discretion (please explain if checked)  
Comments regarding recommendation:

While Planning recognizes the financial impact is negligible, the department is concerned about how this policy will be received by other applicants who are required to pay.

**Planning**

Reviewed by: Amelia R. Linder      Date: 5/4/12  
 Recommend Council approval       Recommend Council denial  
 Council Discretion (please explain if checked)  
Comments regarding recommendation: This is a policy decision for Council to make.

**Public Works**

Reviewed by: David Hoops      Date:  
 Recommend Council approval       Recommend Council denial  
 Council Discretion (please explain if checked)  
Comments regarding recommendation: Does not affect PW operating budget.

**Legal**

Reviewed by: Brad Farrar      Date: 5/16/12  
 Recommend Council approval       Recommend Council denial  
 Council Discretion (please explain if checked)  
Comments regarding recommendation: See comments from Planning. Legal guidance available pursuant to S.C.Code Ann. Sections 30-4-10 et seq. (The South Carolina Freedom of Information Act) if desired.

**Administration**

Reviewed by: Sparty Hammett

Date: 5/16/12

Recommend Council approval

Recommend Council denial

Council Discretion (please explain if checked)

Comments regarding recommendation: I agree with the Planning Director, the removal of fees would have minimal financial impact; however, concerns could be raised by other applicants that have to pay plan review fees.

STATE OF SOUTH CAROLINA  
COUNTY COUNCIL FOR RICHLAND COUNTY  
ORDINANCE NO. \_\_\_-12HR

AN ORDINANCE AMENDING THE RICHLAND COUNTY CODE OF ORDINANCES, CHAPTER 26, LAND DEVELOPMENT; ARTICLE X, SUBDIVISION REGULATIONS; SECTION 26-224, CERTAIN SUBDIVISIONS EXEMPT FROM ROAD STANDARDS; SO AS TO DELETE THE REQUIREMENT OF COUNTY REVIEW FEES.

Pursuant to the authority granted by the Constitution and the General Assembly of the State of South Carolina, BE IT ENACTED BY THE COUNTY COUNCIL FOR RICHLAND COUNTY:

SECTION I. The Richland County Code of Ordinances, Chapter 26, Land Development; Article X, Subdivision Regulations; Section 26-224, Certain Subdivisions Exempt From Road Standards; is hereby amended to read as follows:

**Sec. 26-224. Certain subdivisions exempt from road standards.**

The planning director, or his/her designee, may exempt subdivisions from the road construction requirements of Sec. 26-181 of this chapter only if the property is being transferred to the owners' immediate family members or is being transferred by will or intestate succession or forced division decreed by appropriate judicial authority. The subdivider must submit legal documentation satisfactory to the planning director, or his/her designee, in order to establish eligibility for this exemption. In addition, the subdivider must submit a "Hold Harmless Agreement" as to Richland County. This exemption shall apply only to initial division of property, not to subsequent sale or further subdivision by the heirs, devisees, or transferees. Plats of subdivisions so exempted shall show an ingress/egress easement providing access to all parcels, and shall contain the following information:

- (a) Names of owners of each parcel being created; and
- (b) Purpose of the subdivision; and
- (c) A note stating that "ROAD ACCESS NOT PROVIDED"; and
- (d) A note stating "THESE LOTS/PARCELS MAY NOT BE FURTHER SUBDIVIDED UNTIL ROAD ACCESS IS PROVIDED AND A REVISED PLAT IS APPROVED BY RICHLAND COUNTY".
- (e) Should the planning director, or his/her designee, exempt a proposed subdivision from the construction of the private roadway, the property shall also be exempt from delineation of jurisdictional and non-jurisdictional wetlands (for purposes of approving the plat for recordation only; this section shall not supersede any state and/or federal requirement for construction in, around or through a jurisdictional wetland or flood zone). In the situation that a property owner requests exemption from road construction as outlined in this section, the property owner shall sign a statement that he/she understands

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that the proposed subdivision of land shall not be exempted from any other minimum standard set forth in this chapter, ~~including any and all review fees, minimum lot size, etc.;~~ provided, however, all Planning Department subdivision plan review fees shall be waived.

SECTION II. Severability. If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

SECTION III. Conflicting Ordinances Repealed. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION IV. Effective Date. This ordinance shall be effective retroactively from and after November 15, 2011.

RICHLAND COUNTY COUNCIL

BY: \_\_\_\_\_  
Kelvin E. Washington, Sr., Chair

Attest this the \_\_\_\_\_ day of \_\_\_\_\_, 2012

\_\_\_\_\_  
Michelle M. Onley  
Assistant Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

\_\_\_\_\_  
Approved As To LEGAL Form Only  
No Opinion Rendered As To Content

Public Hearing:  
First Reading:  
Second Reading:  
Third Reading:

# Richland County Council Request of Action

**Subject**

Direct Staff to contact Property Owners on Council Initiated Rezoning (pages 16-17)

**Reviews**

## Richland County Council Request of Action

**Subject:** Direct staff to contact the property owner on Council initiated rezoning matters and determine if the existing zoning will be detrimental to others.

### **A. Purpose**

County Council is requested to direct Legal and Planning staff to contact the property owner on Council initiated rezoning matters and consider the potential impacts of the requested zoning.

### **B. Background / Discussion**

On May 1, 2012, a motion was made by the Honorable Norman Jackson, which was forwarded to the May 22, 2012 D&S Committee agenda:

“In order to rezone property by a Council member, legal and the Planning /Zoning Office must contact the owner. If the requested zoning is a lower classification or will affect the owners plans then it must be determined if it constitutes a Taking. A criteria should be developed to determine if the existing zoning will be detrimental to the adjacent or surrounding zonings before the request is considered.”

The Planning Director presented the following amended motion to the Honorable Norman Jackson on May 1, with his approval to consider:

“In order to rezone property by a Council member, Legal and the Planning/Zoning Office must contact the owner. Council, in coordination with staff, should consider any potential impacts when making a motion to amend zoning. At the time of the motion, Council can establish criteria to determine if the amended zoning will be detrimental to adjacent or surrounding zonings before the request is considered.”

### **C. Financial Impact**

None at this time. Potential criteria established during the rezoning request may require outside assistance for determining impacts.

### **D. Alternatives**

1. Direct staff as described above.
2. Do not direct staff as described above.

### **E. Recommendation**

This request is at the discretion of County Council.

Recommended by: Norman Jackson, Council Member for District 11

Date: May 1, 2012

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## F. Reviews

(Please **SIGN** your name, ✓ the appropriate box, and support your recommendation before routing. Thank you!)

### Finance

Reviewed by: Daniel Driggers

Date: 5/8/12

Recommend Council approval

Recommend Council denial

✓ Council Discretion (please explain if checked)

Comments regarding recommendation:

This is a policy decision for council discretion. Recommendation is based on no financial impact as stated above, "None at this time. Potential criteria established during the rezoning request may require outside assistance for determining impacts."

### Planning

Reviewed by: Tracy Hegler

Date:

✓ Recommend Council approval

Recommend Council denial

Council Discretion (please explain if checked)

Comments regarding recommendation: Planning prefers the amended motion for its ease of implementation.

### Legal

Reviewed by: Elizabeth McLean

Date: 5/9/12

Recommend Council approval

Recommend Council denial

Council Discretion (please explain if checked)

Comments regarding recommendation:

Policy decision left to Council's discretion; however, I would recommend that Legal's role be confined to offering counsel to Planning/Zoning staff regarding potential takings claims when the Planning Department Attorney requests assistance. I would not recommend any attorney from the County be the point of contact with an unrepresented potential adversarial constituent as this could lead to the attorney violating the Rules of Professional Conduct.

### Administration

Reviewed by: Sparty Hammett

Date: 5/9/12

✓ Recommend Council approval

Recommend Council denial

Council Discretion (please explain if checked)

Comments regarding recommendation: Recommend Council approval of the amended motion.

# Richland County Council Request of Action

## **Subject**

John Hardee Express Way Project Funding (pages 19-23)

## **Reviews**

## Richland County Council Request of Action

**Subject:** John Hardee Express Way Project Funding

### **A. Purpose**

County Council is being requested to approve the resolution below to solicit Congressman Jim Clyburn's help in securing the remaining funds for the John Hardee Expressway project.

### **B. Background / Discussion**

On May 1, 2012, Councilman Norman Jackson proposed the following:

*A Resolution: The John Hardee Expressway is very important to the Midlands for future economic development. Richland and Lexington Counties have exhausted all possible funding programs to finance this project and the SCDOT has placed this program as a priority in the STIP. This is not about partisanship; it is about getting help from our congressional leaders to secure finance for the project which will bring thousands of jobs to the Midlands expanding and bringing more companies/industries to our community. I move that we ask Congressman Clyburn for help to secure the additional \$4.2 Million needed to complete the \$82 Million project.*

The John N. Hardee Expressway is included in the Statewide Transportation Improvement Program (STIP) as a project that provides statewide significance. This project is consistent with the statewide long range transportation plan (MPO LRTP) and the metropolitan transportation improvement program. It was set for construction in 2006 by SCDOT but the available funding did not materialize. In 2007 the John N. Hardee Expressway (Airport Connector) was included in the System and Intermodal Connectivity Program and remains as one of the State's primary needs.

Without this project, the economic growth and stability of the region will continue to be threatened. This area is a major industrial hub for Lexington County, Richland County and the greater Columbia area. By completing this project, regional connectivity will improve and provide a direct link to one of the largest interstates in the State.

Over fifteen (15) years ago, it was recognized by community leaders in the Columbia, SC region that there was a need for a direct link from I-26 to the Airport. Currently, passengers and cargo vehicles must travel along a congested one-mile section of S.C. Route 302. This congestion has hindered airline passengers, the general public traveling through this area, and commercial traffic since none of them have direct access to I-26.

In addition to impeding these passengers going to the Airport, this traffic has hindered the economic growth in the area and around the Airport, since cargo-handling vehicles do not have direct access to I-26. One major industry near the Airport, UPS, decided to locate their Southeastern Hub in Columbia with assurance that a direct link to I-26 would be constructed in the future. Other industries in the area have chosen to locate their businesses near the Airport with the hope that a connection would be made. In addition to UPS, SCANA has decided to

relocate from downtown Columbia, closer to the Columbia Metropolitan Airport. It is anticipated that the John N. Hardee Expressway would provide a direct connection between I-26 and the Airport that would alleviate traffic congestion on S.C. Route 302 and other local roads, and facilitate access to the Airport, while providing existing travelers and industries in the area with benefits from the improved traffic flow.

**C. Financial Impact**

At this time, the impact on the County is not known. Funding needed for project completion: \$4.2 million.

**D. Alternatives**

1. Approve the request to solicit Congressman Clyburn’s help in securing the remaining funds for the John Hardee Expressway.
2. Do not approve.

**E. Recommendation**

1. It is recommended that Council approve the request to solicit Congressman Clyburn’s help in securing the remaining funds for the John Hardee Expressway.

Recommended by:  
Councilman Norman Jackson

Date:  
May 2012

**F. Reviews**

(Please **SIGN** your name, ✓ the appropriate box, and support your recommendation before routing. Thank you!)

**Finance**

Reviewed by: Daniel Driggers Date: 5/4/12  
✓ Recommend Council approval  Recommend Council denial  
 Council Discretion (please explain if checked)  
Comments regarding recommendation:

Approval would be consistent with the County financial policy to consider all funding alternatives.

**Grants**

Reviewed by: Sara Salley Date: 5/4/12  
✓ Recommend Council approval  Recommend Council denial  
 Council Discretion (please explain if checked)  
Comments regarding recommendation:

**Legal**

Reviewed by: Elizabeth McLean

Date: 5/4/12

Recommend Council approval

Recommend Council denial

Council Discretion (please explain if checked)

Comments regarding recommendation:

Policy decision left to Council's discretion.

**Administration**

Reviewed by: J. Milton Pope

Date: 5-7-12

Recommend Council approval

Recommend Council denial

Council Discretion (please explain if checked)

Comments regarding recommendation: Recommend approval

STATE OF SOUTH CAROLINA )  
  )  
COUNTY OF RICHLAND      )

**A RESOLUTION**

**A RESOLUTION REQUESTING FUNDING SUPPORT FOR THE JOHN N. HARDEE EXPRESSWAY FROM THE HONORABLE JAMES E. CLYBURN, US HOUSE DISTRICT SIX REPRESENTATIVE, STATE OF SOUTH CAROLINA**

**WHEREAS**, the John N. Hardee Expressway is very important to the Midlands for future economic development; and

**WHEREAS**, officials from both Richland and Lexington Counties have exhausted all possible funding programs to finance this project and the SCDOT has placed this program as a priority in the Statewide Transportation Improvement Program (STIP) as a project that provides statewide significance; and

**WHEREAS**, the John N. Hardee Expressway is consistent with the statewide long range transportation plan and was set for construction in 2006 by SCDOT but the available funding did not materialize; and

**WHEREAS**, the completion of this project will bring thousands of jobs to the Midlands by bringing more companies and industries to our community; and

**WHEREAS**, completion of the John N. Hardee Expressway will provide a direct connection between I-26 and the Columbia Metropolitan Airport and will alleviate traffic congestion on SC Route 302 and other local roads, while providing existing travelers and industries in the area with benefits from the improved traffic flow; and

**WHEREAS**, an additional \$4.2 million dollars is needed to complete this \$82 million project.

**NOW THEREFORE BE IT RESOLVED** that Richland County Council requests the Honorable James E. Clyburn, U.S. House District Six, provide assistance to procure the remaining \$4.2 million needed to complete the John Hardee Expressway

**ADOPTED** this \_\_\_\_ day of May 2012

\_\_\_\_\_  
Kelvin E. Washington, Sr. Chairman  
Richland County Council

ATTEST this \_\_\_\_ day of May 2012

\_\_\_\_\_  
Michelle Onley, Clerk to Council



**Project Location:**  
 Greater Columbia Area  
 Lexington County, SC  
 2nd Congressional District



**John N. Hardee Expressway Phase II**  
 Above: Existing Conditions  
 Top Right: Road Locations  
 Middle Right: Renderings of Future Phase II Project  
 Bottom Right: Rendering of Future Phase II Project

# Richland County Council Request of Action

**Subject**

Review of the Comprehensive Plan to ensure consistency (pages 25-26)

**Reviews**



# **Richland County Council Request of Action**

**Subject:** Review of the Comprehensive Plan to ensure consistency.

## **A. Purpose**

To direct staff to review the Comprehensive Plan in order to ensure consistency of zoning district requirements with Comprehensive Plan recommendations, and to propose recommended changes, if any, to the Planning Commission.

## **B. Background / Discussion**

On May 1, 2012, a motion was made by the Honorable Val Hutchinson and Bill Malinowski as follows:

“I move to direct staff to review the 2009 Comprehensive Plan in order to ensure consistency of zoning district requirements with Comprehensive Plan recommendations, and to propose recommended changes, if any, to the Planning Commission at the earliest convenience.”

This motion was forwarded by County Council to the May D&S Committee agenda.

## **C. Financial Impact**

None.

## **D. Alternatives**

1. Direct staff to review the Comprehensive Plan.
2. Do not direct staff to review the Comprehensive Plan.

## **E. Recommendation**

This request is at Council’s discretion.

Recommended by: Honorable Val Hutchinson and      Date: 5/1/12  
Honorable Bill Malinowski

## **F. Approvals**

### **Finance**

Reviewed by: Daniel Driggers

Date: 5/8/12

Recommend Council approval

Recommend Council denial

Council Discretion (please explain if checked)

Comments regarding recommendation:

This is a policy decision for council discretion with no financial impact as stated above.

**Planning**

Reviewed by: Tracy Hegler

Date:

Recommend Council approval

Recommend Council denial

Council Discretion (please explain if checked)

Comments regarding recommendation: The Planning Department is prepared to review the Comprehensive Plan and zoning district requirements for consistency and can provide recommendations accordingly.

**Legal**

Reviewed by: Elizabeth McLean

Date: 5/9/12

Recommend Council approval

Recommend Council denial

Council Discretion (please explain if checked)

Comments regarding recommendation:

Policy decision left to Council's discretion.

**Administration**

Reviewed by: Sparty Hammett

Date: 5/10/12

Recommend Council approval

Recommend Council denial

Council Discretion (please explain if checked)

Comments regarding recommendation: Recommend Council approval to direct staff to review Comprehensive Plan.

# Richland County Council Request of Action

**Subject**

Broad River Sewer Monthly User Fees (pages 28-30)

**Reviews**

## Richland County Council Request of Action

**Subject:** Broad River Sewer Monthly User Fees

### **A. Purpose**

The purpose of this report is to provide County Council with information relating to the motion made by Councilman Malinowski during the May 15, 2012 Council meeting. The motion is as follows:

“Many residents connected to City of Columbia Water are charged the same flat rate for sewer as those who have well water. Some families consist of 4 or more while others are only one person. This in itself will create a huge disparity in sewer use. In an effort to work toward a more fair pricing of utilities the following motion is being made: Determine per gallon usage rates for sewer in counties of comparable size to Richland County and then through liaison obtain water usage rates from Columbia in order to charge a more accurate sewer usage rate for those who have water meters. Those without meters will continue to pay a standard rate as determined by Richland County.”

### **B. Background**

The Richland County Utilities Department provides sewer service to approximately 10,000 residential and commercial customers. In addition, the Utilities Department provides water service to less than 600 residential customers. Only a small portion of the County’s water customers (15) are also County sewer customers.

Richland County’s sewer service area is considerably different than a municipality’s service area. The County’s service area is mostly in the unincorporated areas of the County where public water service may or may not be available. A specific survey has not been completed, but from reviewing sewer system service area maps, an estimated seventy percent (70%) of the County’s sewer customers may have access to a public water system. The remaining thirty percent (30%) obtain their water from private wells.

Several public water systems provide water service within the County’s sewer service area with the City of Columbia’s system being the largest. Of the seventy percent (70%) on public water, approximately fifty percent (50%) would be on the City of Columbia’s system with the remaining twenty percent (20%) being supplied by small community water systems. These small community water systems may be either owned and operated by a community or homeowners association. The water supplied by these small community water systems may or may not be metered for use.

### **C. Discussion**

Richland County has historically charged a flat rate for sewer service due to a lack of access to water usage data. As mentioned above, the City of Columbia is the largest supplier of water in the County’s service area. Attempts have been made in the past to obtain water usage data from the City for County sewer customers. The City provides water service to approximately 132,000 customers. The problem with obtaining water

usage data for County sewer customers only was the ability to identify those customers from the list of 132,000 customers that the City can provide.

In addition to not being able to identify the County customers from the City's list, there also exist approximately 2000 sewer customers who receive their water from small community water systems and 3000 sewer customers who receive their water from private wells. These wells normally do not have water meters nor does anyone collect any data on water consumption. Also, the small community water systems that are homeowner association owned likely do not have water meters installed to measure water consumption.

#### **D. Alternatives**

1. The County can continue to charge a flat rate for monthly sewer usage. This is a common practice industry-wide where water usage data is not available.
2. The County can develop a program to collect water usage data from all sewer customers. This would require:
  - A. developing a software program to extract County customer data from City of Columbia water customer data,
  - B. maintaining and updating the software program mentioned above with new customer data monthly,
  - C. installing water meters on all private wells and community water systems without meters. This may require permission and a hold harmless agreement with the property owners,
  - D. develop a program to read water meters on private wells. This would likely require additional Utilities personnel,
  - E. modifying the County rate ordinance to reflect a new water usage rate structure.
3. The county can develop a hybrid monthly user fee to charge customers with available water consumption data a monthly fee based on consumption and a flat monthly fee for those without water consumption data. Many of the same requirements as identified in option #2 above would also apply to this option. This option should be discussed in greater detail with the Legal Department prior to implementation.

#### **E. Financial Impact**

Alternative#1 above would have no financial impact on the Utilities Operation.

Alternatives #2 and #3 may require additional funds to develop a program to receive data from the City, install water meters and fund personnel to implement and maintain the program. Additional research would be required to estimate the actual implementation cost.

#### **F. Recommendation**

Defer to Council's discretion.

**Recommended for discussion by:** Councilman Malinowski      **Date** 6/12/12

#### **G. Reviews**

Please indicate your recommendation with a  before routing to the next recipient. Thanks.

**Utilities**

Reviewed by: Andy Metts

Date: 6/13/12

- Recommend Council approval of alternative #1
- Recommend Council denial
- Council Discretion (please explain if checked)

Comments regarding recommendation: Because of the obstacles and possible additional cost associated with implementing a water usage based rate structure, it is recommended that the monthly user fee remain as a flat rate. Flat Rate is the most common rate used by Utilities that provide only sewer service.

**Finance**

Reviewed by: Daniel Driggers

Date: 6/13/12

- Recommend Council approval
- Recommend Council denial
- Council Discretion (please explain if checked)

Comments regarding recommendation:

Alternative one is consistent with the County’s current practice. Based on the information provided, additional research would be needed to determine the financial viability of alternative 2 or 3.

**Procurement**

Reviewed by: Rodolfo Callwood

Date: 6/14/12

- Recommend Council approval
- Recommend Council denial
- Council Discretion (please explain if checked)

Comments regarding recommendation:

**Legal**

Reviewed by: Elizabeth McLean

Date: 6/14/12

- Recommend Council approval
- Recommend Council denial
- Council Discretion (please explain if checked)

Comments regarding recommendation:

Policy decision left to Council’s discretion.

**Administration**

Reviewed by: Sparty Hammett

Date: 6/19/12

- Recommend Council approval
- Recommend Council denial
- Council Discretion (please explain if checked)

Comments regarding recommendation: Recommend Council approval of Alternative 1 – continuing to charge a flat monthly rate.

# Richland County Council Request of Action

**Subject**

Community Residential Care Facility Resolution to Richland County Legislative Delegation and SC General Assembly (pages 32-36)

**Reviews**

## Richland County Council Request for Action

**Subject:** A resolution to the Richland County Legislative Delegation, in conjunction with the South Carolina General Assembly, that would provide Richland County with a greater role in locating Community Residential Care Facilities and similar use facilities in Richland County

### **A. Purpose**

County Council is requested to support a resolution to the Richland County Legislative Delegation, in conjunction with the South Carolina General Assembly, that would provide Richland County with a greater role in locating community residential care facilities, group homes, boarding houses, halfway houses, and similar use facilities, in Richland County.

### **B. Background / Discussion**

During the May 15<sup>th</sup> Council Meeting, the following motion was made by the Honorable Gwendolyn Kennedy:

“ A Resolution to the Richland County Legislative Delegation to promote local governments' ability to locate community residential care facilities, group homes, boarding houses, halfway house and similar uses consistent with State and Federal Law and the interests and character of single-family residential districts.”

A draft resolution is attached that supports this effort.

### **C. Financial Impact**

None.

### **D. Alternatives**

1. Approve submittal of the resolution to the Richland County Legislative Delegation, in conjunction with the South Carolina General Assembly
2. Do not approve submittal of the resolution.

### **E. Recommendation**

This request is at Council's discretion.

Recommended by: Honorable Gwendolyn Kennedy. Date: May 15<sup>th</sup> 2012

### **F. Approvals**



**Finance**

Reviewed by: Daniel Driggers

Date: 6/8/12

Recommend Council approval

Recommend Council denial

✓ Council Discretion (please explain if checked)

Comments regarding recommendation:

**Planning**

Reviewed by: Tracy Hegler

Date:

Recommend Council approval

Recommend Council denial

✓ Council Discretion (please explain if checked)

Comments regarding recommendation

**Legal**

Reviewed by: Elizabeth McLean

Date: 6/11/12

Recommend Council approval

Recommend Council denial

Council Discretion (please explain if checked)

Comments regarding recommendation:

Policy decision left to Council's discretion.

**Administration**

Reviewed by: J. Milton Pope

Date: 6-11-12

Recommend Council approval

Recommend Council denial

✓ Council Discretion (please explain if checked)

Comments regarding recommendation: Council discretion

**STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )  
) A RESOLUTION OF THE  
) RICHLAND COUNTY COUNCIL**

**A RESOLUTION TO THE RICHLAND COUNTY LEGISLATIVE DELEGATION TO PROMOTE LOCAL GOVERNMENTS’ ABILITY TO LOCATE COMMUNITY RESIDENTIAL CARE FACILITIES, GROUP HOMES, BOARDING HOUSES, HALFWAY HOUSES AND SIMILAR USES CONSISTENT WITH STATE AND FEDERAL LAW AND THE INTERESTS AND CHARACTER OF SINGLE-FAMILY RESIDENTIAL DISTRICTS.**

**WHEREAS**, Richland County affirms its commitment to the goals and principles of The Fair Housing Act (the FHA), which prohibits a broad range of practices that discriminate against individuals on the basis of race, color, religion, sex, national origin, familial status, and disability; and

**WHEREAS**, the FHA is not a land use or zoning statute and does not preempt local zoning laws, but instead prohibits local governmental entities from making zoning or land use decisions or implementing land use policies that exclude or discriminate against protected persons, including individuals with disabilities; and

**WHEREAS**, the disability discrimination provisions of the FHA do not extend to persons who claim to be disabled solely on the basis of having been adjudicated a juvenile delinquent, having a criminal record, or being a sex offender. Furthermore, the FHA does not protect persons who use illegal drugs, persons who have been convicted of the manufacture or sale of illegal drugs, or persons with or without disabilities who present a direct threat to the persons or property of others; and

**WHEREAS**, a “community residential care facility” pursuant to S.C. Code Ann. Section 44-7-130(6) is, “[A] facility which offers room and board and provides a degree of personal assistance for two or more persons eighteen years old or older”; and

**WHEREAS**, counties have a very limited and ineffective ability to object to the siting of a proposed residential care facility pursuant to S.C. Code Ann. Section 44-7-350, an no ability to object to the licensing of such facilities; and

**WHEREAS**, the overwhelming responsibility relative to the licensing, operation and regulation of community residential care facilities lies with SCDHEC in accordance with S.C. Code Ann. Section 44-7-140, which provides, “The department[(the South Carolina Department of Health and Environmental Control (SCDHEC) is designated as the sole state agency for control and administration of the granting of Certificates of Need and licensure of health facilities and other activities necessary to be carried out under this article; and

**WHEREAS**, Richland County Code of Ordinances section 26-22 defines a “Group Home” as “a residential home, provided by an agency, organization or individual, for mentally or physically handicapped persons and which is licensed by the State of South Carolina to provide such service”; and

**WHEREAS**, S.C. Code Ann. Subsection 6-29-770(A) provides, “Agencies, departments, and subdivisions of this State that use real property, as owner or tenant, in any county or municipality in this State are subject to the zoning ordinances,” and S.C. Code Ann. Subsection 6-29-770(E) provides, “The provisions of this section do not apply to a home serving nine or fewer mentally or physically handicapped persons provided the home provides care on a twenty-four hour basis and is approved or licensed by a state agency or department or under contract with the agency or department for that purpose”; and

**WHEREAS**, S.C. Code Ann. Subsections 6-29-770 further prescribes the licensing agency’s duties as follows, “(F) Prospective residents of these homes must be screened by the licensing agency to ensure that the placement is appropriate. (G) The licensing agency shall conduct reviews of these homes no less frequently than every six months for the purpose of promoting the rehabilitative purposes of the homes and their continued compatibility with their neighborhoods; and

**WHEREAS**, community residential care facilities, group homes, boarding houses, halfway houses and similar uses can create a fundamental change in the single-family character of the neighborhood and in certain circumstances may create more demand for on-street parking than would typically be associated in residential single-family neighborhoods; and

**WHEREAS**, determining whether a particular accommodation to a local government’s zoning or land use laws is reasonable depends upon, among other factors, whether the requested accommodation imposes an undue burden or expense on the local government and whether the proposed use creates a fundamental alteration in the zoning scheme; and

**WHEREAS**, the FHA does not generally affect the ability of local governments to regulate housing of this kind, as long as they do not discriminate against the residents on the basis of race, color, national origin, religion, sex, handicap or familial status; and

**WHEREAS**, Richland County opposes requested accommodations that would be likely to create a fundamental change in the single-family character of a neighborhood; and

**WHEREAS**, over-concentration of group homes or residential care facilities could adversely affect individuals with disabilities and would be inconsistent with the objective of integrating persons with disabilities into the community and in certain circumstances may create more demand for on-street parking than would typically be associated in residential single-family neighborhoods; and

**WHEREAS**, the FHA expressly allows "any reasonable local, State, or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling" if the maximums apply to everyone in a dwelling, generally for the purpose of avoiding overcrowding. 42 U.S.C. § 3607(b)(1). See also *City of Edmonds v. Oxford House, Inc.*, U.S. , 115 S.Ct. 1776, 131 L.Ed.2d 801 (1995), and courts even have permitted application of a dispersal requirement to prevent cluster of group homes in certain circumstances. *Familystyle of St. Paul v. City of St. Paul, Minn.*, 923 F.2d 91 (8th Cir. 1991);

**NOW, THEREFORE, BE IT RESOLVED** that the Richland County Council requests that the Richland County Legislative Delegation, in conjunction with the South Carolina General Assembly, pursue legislative measures designed to provide local governments with a greater role in locating community residential care facilities, group homes, boarding houses, halfway houses and similar uses consistent with state and federal law and the interests and character of single-family residential districts.

**ADOPTED THIS** \_\_\_\_ day of \_\_\_\_\_, 2012.

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Kelvin Washington, Chair  
Richland County Council

ATTEST this \_\_\_\_ day of \_\_\_\_\_, 2012

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Michelle Onley  
Clerk of Council

# Richland County Council Request of Action

**Subject**

Road Right of Way and Acceptance Policy (pages 38-41)

**Reviews**

# Richland County Council Request of Action

## Subject: Road Right of Way and Acceptance Policy

### A. Purpose

Develop a policy to guide Public Works staff for:

1. The acquisition of Right of Way for the improvement of County maintained roads presently in prescriptive easements.
2. The acceptance of existing improved roads not accepted into the maintenance system.

### B. Background / Discussion

At the 2012 County Council Retreat, the need to develop a County right of way policy for road improvements in prescriptive easements and an unaccepted road policy was discussed with Council. In addition, Chairman Washington has indicated that Public Works should be working to obtain right of way for dirt road paving in the event that funding becomes available. The proposed policies would give staff direction in regard to right of way for dirt roads and the acceptance of existing paved roads into the County maintenance system.

1. Richland County has 211 miles of dirt roads in its maintenance system that are not in publicly owned right of ways (prescriptive easements). To expend public funds for improvements to these roads publicly owned right of ways must be acquired. A systematic approach needs to be developed to acquire those right of ways.
  - a. Unimproved roads maintained by RC without right of way are claimed to be public roads by prescriptive easement. Maintenance responsibility is created by section 21-5. Note that subsection (a) states *dedicated for public use* and (c) *comprising the land actually maintained*. Also note that subsection (h) states *Any unpaved road **deeded** to the county under these provisions may be eligible for "C" fund improvements*.
2. Richland County has 114 miles of paved roads that were not taken into the maintenance system. In most instances the original intent was to create a public road but either the developer or the County failed to complete the acceptance process. If the County is to consider accepting these roads for maintenance a systematic approach needs to be developed. This area falls under *Sec. 21-6. Standards for streets and drainage*.  
*Except as provided for in sections 21-4 and 21-5 above, only those streets, roads, and drainage systems designed and constructed in accordance with the standards prescribed herein will be accepted for maintenance by the County.*

### C. Financial Impact

This policy has no direct financial impact but could increase the future cost of roadway maintenance.

**D. Alternatives**

The do nothing alternate would result in:

- 1. Not being able to improve existing county maintained dirt roads in prescriptive easements. Roads can only be accepted for maintenance when they have been improved at the cost of the benefiting property owners to new road standards
- 2. Only being able to accept existing paved roads for maintenance that meet present code and are in like new condition.

Change policy and regulations if necessary to give staff appropriate directions to address these issues.

**E. Recommendation**

Change policy and regulations as follow:

- 1. **Prescriptive easements** – Establish a policy as follows

- i. Residents petition for improvement of the road on which their property is accessed. All property owners from which right of way will be required must participate on the petition.*
- ii. Public works will perform a preliminary study and create a right of way plan and deed documents.*
- iii. Upon receipt and recording of all necessary right of way deeds the project will be placed on the pending project list to be addressed when funds are available.*
- iv. All right of way must be donated by the property owners, no right of way will be purchased without specific direction of council.*

- b. **Existing unaccepted paved roads** – Establish a policy as follows:

- i. If development records exist. If records indicate the intent during development was to accept for public maintenance and the road is in conformity to the standards at that time of construction accept for maintenance.*
- ii. If records do not exist. If the roadway is in conformity with standards at the time of construction and in a physical condition appropriate for its age and use accept for maintenance.*
- iii. If road was not constructed to standards of the time or has deteriorated beyond normal use it can be reconstructed at the expense of the benefiting property owners in accordance with section 21-5 (h)*

*(h) Any road in the county, including those created as a part of a private driveway subdivision pursuant to the county's land development regulations, **may be accepted by the county and brought up to paved or unpaved road standards as set forth in this article;** provided that eighty percent (80%) of all property owners within the subdivision agree to same and that all costs incurred by the county to*

*bring the road up to county paved or unpaved standards are paid by the property owners. Such costs may be included as an assessment on the tax bill of the property owners, to be paid over no more than a 15 year period with an interest charge equal to that paid by the county for bonds issued to fund construction. The total costs plus interest of the improvements shall be allocated between the property owners by each lot being assessed an equal share of the costs and interest. Any unpaved road deeded to the county under these provisions may be eligible for "C" fund improvements. This section appears to allow improvement to a dirt road standard that could then be upgraded to paved with C funds.*

Recommended by: David Hoops

Department: Public Works

Date: 6/13/12

## F. Reviews

(Please **SIGN** your name, ✓ the appropriate box, and support your recommendation before routing. Thank you!)

### Finance

Reviewed by: Daniel Driggers

Date: 6/13/12

Recommend Council approval

Recommend Council denial

Council Discretion (please explain if checked)

Comments regarding recommendation:

Recommendation is based on the evaluation and review of the Public Works Director. The financial sections states that the policy does not have any direct financial impact on the County however, it could increase the future cost of roadway maintenance therefore I would recommend that the policy include the estimated impact of the future maintenance cost on the system.

### Planning

Reviewed by: Tracy Hegler

Date:

Recommend Council approval

Recommend Council denial

Council Discretion (please explain if checked)

Comments regarding recommendation:

### Procurement

Reviewed by: Rodolfo Callwood

Date: 6/14/12

Recommend Council approval

Recommend Council denial

Council Discretion (please explain if checked)

Comments regarding recommendation:

Item# 9



**Legal**

Reviewed by: Elizabeth McLean

Date: 6/14/12

Recommend Council approval

Recommend Council denial

Council Discretion (please explain if checked)

Comments regarding recommendation:

Under state law, to claim a prescriptive easement on a property, the County would need to prove that it had maintained the property for public use for a period of twenty years under a claim of right or adverse to the property owner’s interests. If that is proven, then the County has a legal right to the property, even without a deed or right-of-way. The right-of-way would put the County in a substantially better legal position, and obviate the need to file a Quiet Title action, whereby the Court declares who the legal owner is.

**Administration**

Reviewed by: Sparty Hammett

Date: 6/18/12

Recommend Council approval

Recommend Council denial

Council Discretion (please explain if checked)

Comments regarding recommendation: Recommend Council approval of the road right-of-way and acceptance policies.

# Items Pending Analysis

## **Subject**

- a. Curfew for Community Safety (Manning-February 2010)

## **Reviews**