



Richland County Council
Rules and Appointments Committee
June 2, 2020 – 4:00 PM
Zoom Meeting

COMMITTEE MEMBERS PRESENT: Bill Malinowski, Chair, Chakisse Newton and Gwen Kennedy

OTHERS PRESENT: Allison Terracio, Michelle Onley, Kimberly Williams-Roberts, and Ashley Powell

1. **CALL TO ORDER** – Mr. Malinowski called the meeting to order at approximately 4:06 PM. For the record, the meeting started a few minutes late due to the previous meeting running over its allotted time.
2. **APPROVAL OF MINUTES**
 - a. May 19, 2020 – Ms. Newton moved, seconded by Mr. Malinowski, to approve the minutes as submitted. The vote in favor was unanimous.
3. **ADOPTION OF AGENDA** – Ms. Newton stated she is under the impression that Roger Leaks, an applicant for the Central Midlands Regional Transit Authority vacancy, has requested to be interviewed on another date.

Ms. Newton moved, seconded by Mr. Malinowski, to adopt the agenda as amended to remove Item 4(b): “Central Midlands Regional Transit Authority” interview and to add a discussion regarding the Central Midlands Regional Transit Authority vacancy.

In Favor: Malinowski and Newton

The vote in favor was unanimous.

Ms. Newton moved, seconded by Mr. Malinowski, to reconsider the agenda.

In Favor: Malinowski and Newton

The vote in favor was unanimous.

Ms. Newton moved, seconded by Mr. Malinowski, to add “Notification of Appointments” to the agenda.

In Favor: Malinowski, Kennedy and Newton

The vote in favor was unanimous.

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4. **INTERVIEWS**

- a. Historic Columbia – 1 – Mr. C. Carroll Heyward, Jr. was interviewed for the Historic Columbia vacancy.

Mr. Malinowski inquired if the Historic Columbia Board has members from the City of Columbia, other municipalities, and Richland County.

- b. Notification of Vacancies – Mr. Malinowski inquired if Ms. Roberts was about to find any information about the makeup of the Board.

Ms. Roberts responded the only information she located says that Council will designate two (2) representatives.

Mr. Malinowski stated his concern was, as we have discussed before, Mr. Heyward is not in the unincorporated area of Richland County, and will have decision making over the activities and finances of Historic Columbia.

Ms. Newton stated she is not aware of how the seats are appointed for Historic Columbia. She is familiar with the Palladium Society, its work, and how fully integrated it is with Historic Columbia. Given Mr. Heyward's six (6) years of dedicated involvement to promote Historic Columbia, and their mission, she would move to appoint him to the Board. Mr. Malinowski seconded the motion.

In Favor: Malinowski and Newton

The vote in favor was unanimous.

5. **ITEMS FOR DISCUSSION/ACTION**

- a. I move that Council work with staff to conduct a comprehensive review of Council rules and recommend changes to streamline the rules to improve the functioning of Council business [NEWTON]

Rule 1.2: PROCEDURE – Mr. Malinowski stated he believes we should indicate dated, and put a date in there, then there can be no challenge to the fact we are following current Robert's Rules of Order.

Ms. Newton stated, if we put a specific date, no matter what date we put, we put ourselves in a position where we would have to change it every time.

Mr. Malinowski stated, if you do not put a date, he thinks we can get all kinds of questions (i.e. What are the most recent ones you are following?).

Ms. Newton stated she does not know how frequently Robert's Rules of Order changes, so from her perspective this is sufficient, but if the committee's desire is to have the date included that is fine. We would just need a mechanism where we are reviewing the Rules on a regular basis.

Mr. Malinowski inquired if Mr. Farrar sees a problem with adding a date for Robert's Rules.

Mr. Farrar responded, it depends on if you are going to adopt Council Rules every year. If you "re-

adopt” the Rules every January, it would not be an issue. The only time it might become an issue is if you have not adopted Council Rules in years.

Rule 1.3: OPEN MEETINGS – Ms. Newton stated the text in red says, “unless circumstances make it impractical or impossible to broadcast such meeting.” She inquired if we would consider costs as one of the things that made it impractical. For example, if we had a meeting at a new location (i.e. Retreat or “remote” location in the County) and we were told it would cost \$75,000 to broadcast the meeting. In essence, do we need to specify costs or can we presume it is implied?

Mr. Malinowski responded that he is fine with putting it in the Rules, then there is no question that costs is something we are looking at.

Ms. Newton requested the language be amended to say, “...(e.g., if a meeting is held someplace other than Council’s normal meeting place, *excessive costs*), or other difficulty.”

Ms. Terracio stated life has changed since the last time we considered livestreaming from a remote place, other than Council Chambers. Now we are set up with technology that we could Zoom from wherever we would be. Unless there were some kind of extenuating circumstance (e.g. a blackout or Internet outage). She wanted the language in the Rules to reflect that we can, and should, transmit our meetings from wherever we might happen to be. Frankly, this gives us an opportunity to have a Council meeting in a different place in the County, if needed.

Mr. Malinowski inquired if the following language: “Public notice of regularly scheduled meetings, special called meetings, and committee meetings...” would encompass ad hoc committees, as well.

Mr. Farrar responded in the affirmative. The language is all inclusive of any committee meetings.

Rule 1.4: EXECUTIVE SESSION – Ms. Terracio stated the only language in this section is as follows: “In accordance with the South Carolina Freedom of Information Act...the Chair or presiding officer shall announce the specific purpose of the executive session.” She inquired if the purpose of the Executive Session be published in the agenda, so the public can see that we are going into Executive Session for a “Personnel Matter”, “Receipt of Legal Advice”, etc.

Mr. Farrar responded you can put the type/purpose of the Executive Session. The only caution on that would be that you not limit yourself. In other words, if you list that on the agenda you are going to talk about a Personnel Matter, but in the middle of the meeting some major legal issue arises, and you have not advertised that item, so you cannot hold an Executive Session. Under FOIA, you can take an Executive Session anytime you want to, whether you have advertised it. If something comes up that is so significant that you may need to talk about it behind closed doors, would be the only drawback. He would include a catchall that says, “Public Body may go into Executive Session for any reason provided for under FOIA.”

Ms. Terracio suggested adding the reason for the “planned” Executive Session items, and if another one arose, it could be stated out loud. If we know in advance, when the agenda is published, she believes we should disclose it at that time, if it is an Executive Session item.

Mr. Malinowski inquired if we could, at the point of Executive Session, indicate the Executive Session items listed may not be the only ones, pending what happens at the meeting.

Mr. Farrar stated, for clarification, to state that on the agenda.

Mr. Malinowski responded in the affirmative. If we are listing items that we are going into Executive Session for, someone is going to say well you did not have that one listed on the meeting.

Mr. Farrar responded he will have to give it some thought how this could be listed. He stated we do not have that many items come up that is not listed on the agenda for Executive Session. It would probably be a good idea to have the Chair, or the County Attorney, to comment at that time, the purpose for going into Executive Session on an item not listed for Executive Session on the printed agenda. We need to be diligent with that, as we get to the agenda deadline.

Ms. Newton inquired if that language needs to be here or under "Agenda".

Mr. Farrar responded he would list it under Rules 1.7(c)(5).

Mr. Malinowski requested clarification on the following language: "No action may be taken in executive session except to (a) adjourn or (b) return to public session." He stated he did not realize we could adjourn the meeting in Executive Session.

Mr. Farrar responded that is out of Robert's Rules. The language can be misleading because you would come out of Executive Session, and then take the vote to return to public session or to adjourn the meeting. Council cannot take a "poll" or anything else while in Executive Session.

Mr. Malinowski requested the language be looked at further, or even eliminated.

- b. Unless there are truly extenuating circumstances agenda items should not be listed as "Title Only". (Somebody was late getting it to us" is not extenuating.) This only gives the public two opportunities to see an item prior to final approval by Council when in fact there should be three [MALINOWSKI] – This item was not taken up.
- c. Consider moving the Horizon meeting to Tuesday and have delivery of finished agendas to Council members by Thursday close of business [MALINOWSKI, McBRIDE, MYERS, NEWTON & TERRACIO] – This item was not taken up.
- d. I move that Richland County disqualify any vendor in its procurement process as a "qualified bidder" if Richland County is currently in any legal dispute, lawsuit or settlement negotiation either individually or jointly named [WALKER, MALINOWSKI, ETC.] – Mr. Malinowski stated Mr. Farrar recommended focusing on performance rather than status.

Ms. Newton moved, seconded by Mr. Malinowski, to include the following language, as suggested by the Legal Department: "The deliberate failure without good cause to perform in accordance with the specifications of, or within the time limit provided in, a contract, or a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one (1) or more contracts need not result in formal claims or litigation by any party to any contractual relationship entailed in this section. Further, the mere fact of litigation is not an event of automatic debarment. Rather, the procurement director shall look at each instance of failure to perform in a timely manner or accordance with contract specifications, or a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one (1) or more contracts to determine if such performance or failure to perform would tend to impact the person's or firm's

ability to acceptably perform in the contractual arrangement for which debarment is considered, and the feasibility of the County entering into a contractual relationship with or continuing a contractual relationship with a person or firm whose performance falls under this subsection.”

In Favor: Malinowski and Newton

The vote in favor was unanimous.

- e. Boards, Committees, and Commission Descriptions and Duties – This item was not taken up.
- f. Central Midlands Regional Transit Authority Vacancy – Ms. Newton stated, given that we have just changed the makeup of our appointments to the COMET Board, and that the organizations is undergoing some strategic changes, she moved that we hold future appointments to the Board until we have additional information from the COMET about the Board Profile they need for the organization. Mr. Malinowski seconded the motion.

Mr. Malinowski noted, he believes, we will need to forward a recommendation to full Council, prior to move forwarding with the motion. He outlined the recent changes to the makeup of the COMET Board for Mr. Farrar. He noted the committee would like to have input from the CMRTA, as to their preferred criteria for a Board member. He inquired if that recommendation would need to be taken up by full Council.

Mr. Farrar responded you would want the criteria to be shared, and coordinated with the full body.

Mr. Malinowski made a substitute motion, seconded by Ms. Newton, to direct staff to contact CMRTA, in order to obtain their preferred criteria in an appointee to the Board.

In Favor: Malinowski and Newton

The vote in favor was unanimous.

- 6. ADJOURNMENT – The meeting adjourned at approximately 5:00 PM