

# RICHLAND COUNTY COUNCIL

## SOUTH CAROLINA

### REGULAR SESSION MEETING

September 20, 2016  
6:00 PM  
County Council Chambers

*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*

#### CALL TO ORDER

Mr. Rush called the meeting to order at approximately 6:00 PM

#### INVOCATION

The Invocation was led by the Honorable Jim Manning

#### PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by the Honorable Jim Manning

#### APPROVAL OF MINUTES

**Special Called: September 13, 2016** – Mr. Pearce moved, seconded by Mr. Malinowski, to approve the minutes as distributed. The vote in favor was unanimous.

#### ADOPTION OF AGENDA

Ms. Dickerson moved, seconded by Mr. Manning, to adopt the agenda as published. The vote in favor was unanimous.

#### REPORT OF THE ATTORNEY FOR EXECUTIVE SESSION

Ms. McLean stated the following items were potential Executive Session Items:

- a. **Employee Grievance**
- b. **An Ordinance Approving the execution and delivery of a purchase agreement for certain property located in Carolina Pines Industrial Park; and other matters related hereto**
- c. **Personnel Matter**
- d. **Right-of-Way Acquisition: Clemson Road and North Springs Intersection Improvement**



#### Committee Members Present

Torrey Rush, Chair  
Greg Pearce, Vice Chair  
Joyce Dickerson  
Norman Jackson  
Damon Jeter  
Paul Livingston  
Bill Malinowski  
Jim Manning  
Dalhi Myers  
Seth Rose

#### Others Present:

Gerald Seals  
Kimberly Roberts  
Daniel Driggers  
Kevin Bronson  
Beverly Harris  
Warren Harley  
Roxanne Ancheta  
Michelle Onley  
Tracy Hegler  
Jeff Ruble  
Quinton Epps  
Geo Price  
Brandon Madden  
Dale Welch  
Larry Smith  
Rob Perry  
Janet Claggett  
Brad Farrar

**CITIZENS' INPUT  
(For Items on the Agenda Not Requiring a Public Hearing)**

Mr. Ned Pendarvis spoke against Item #20 – “Authorizing the expansion of the boundaries of the I-77 Corridor Regional Industrial Park jointly developed with Fairfield County to include certain real property located in Richland County; the execution and delivery of a credit agreement to provide for special source revenue credits to Haven Campus Communities – Columbia, LLC, and other related matters”

**REPORT OF THE COUNTY ADMINISTRATOR**

- a. Election Commission Members' Legal Bill(s) Update – Mr. Seals gave a brief PowerPoint presentation regarding the Election Commission Members' legal bills.

**OVERVIEW OF ISSUE**

**1. Role of County in Solving Administrative and Fiscal Issues in Non-County Entities**

- County Council has no supervisory authority over the Elections Office or the execution of its annual budget
- The Elections Director does not have unilateral authority to hire outside legal counsel
- This whole issue could have been averted if the Elections Director operated within the confines of his authority

**2. Role of the Legislative Delegation**

- The Legislative Delegation only recommends the County Board of Elections and Voter Registration Commissioners to the Governor for appointment pursuant to SC Code of Law; Section 7-5-10(A)(1)
- Neither the Legislative Delegation nor Richland County Council has supervisory authority over the Elections Office or the execution of its annual budget. Supervision of the County Board of Elections and Voter Registration is provided by the Executive director of State Election Commission per the SC Code of Law; Section 7-3-20

**3. Role of the County Board of Elections and Voter Registration (Board)**

- The Board does not have any fiscal authority. Pursuant to SC Code of Law; Section 7-5-10(B)(6) the board must hire a director. The director is responsible for hiring and managing the staff. All staff positions are subject to the County's personnel system policies and procedures, except that the director serves at the pleasure of the board.
- The decision to employ outside legal counsel rests with the Attorney General, according to Section 1-7-50: Defense of actions against public officers and employees.

**STAFF RECOMMENDATIONS**

**1. Do not raid the locally funded operating budget of the Elections Office**

- Amend the budget in the amount of \$38,740 to pay the Election's legal bill which would be a one-time action that requires Council to suspend its policies.

**2. Establish internal budgetary management controls for the Elections Office**

- The Elections Office and the Office of Voter Registration are organizational units unto themselves; therefore, staff recommends establishing an operational budget for the Office of Voter Registration and budget for Elections
- Council may want to consider identifying two Councilmembers to monitor any budgetary deviations

**3. Send letter from County Council to State Senator John Scott, Chair of the Richland County Legislative Delegation**

- Letter will provide direction on what their body needs to do regarding this issue and detail the rationale for the Council's actions and the Administrator's recommendation.

**4. Send letter from County Council to Election Commission Chair Adell Adams**

- Letter will inform Ms. Adams of the rationale for Council's actions and the Administrator's recommendation, stating Council has authorized the additional funds as a one-time budget amendment only.

**5. Council may want to request confirmation from the Board that all of their members received the required training and completed the certification program pursuant to SC Code of Laws Section 7-5-10(D) which is conducted by the State Election Commission**

**6. Election Directors should not be hired without having the appropriate licenses and/or certifications**

- A serious profile of an Election Director should be developed. From that profile a position description should be developed and utilized when filling this position

**"COUNCIL ACTION NEEDED"**

To move forward with staff recommendations, Council is requested to approve the following motion:

"Move for the first reading approval of a budget amendment in the amount of \$38,740 to pay the Elections legal bill and authorize staff to take the actions presented in the County Administrator's recommendations regarding this issue"

**APPROVAL OF THE MOTION WILL AUTHORIZE THE FOLLOWING ACTIONS**

- Draws down funds from fund balance in the amount of \$38,740
- Budgets the abovementioned funds into the Board of Elections and Voter Registration's account to pay their legal bill
- Directs staff to establish budget control measures to ensure adequate funding is available for all elections by creating two Election budgets: an operational budget for the Office of Voter Registration and a budget for Elections
- Directs staff to send formal written correspondence to the members of the County's State Legislative Delegation and the Chairperson of the Election Commission Board, informing both bodies of the rationale of Council's actions and Administrator's recommendations

Mr. Rush inquired how the Elections Office has been allowed to overspend their budget consistently.

Mr. Seals stated the passage of budget amendments by Council to fix the problem has not fixed the problem, but in actuality allowed the trend of overspending to continue.

Mr. Livingston requested the Elections Office budget request and allocation each year be reviewed.

**POINT OF PERSONAL PRIVILEGE** – Ms. Myers recognized Mr. Harris, constituent of District 10, was in the audience.

Ms. Myers inquired if the Elections Office budget is within the formula.

Mr. Seals stated he believes their budget is within the formula and it is the Elections Office responsibility to operate within their budget.

Ms. Myers requested an explanation for why there is still a ballooning of expenses in non-election years.

Mr. Pearce moved, seconded by Mr. Livingston, to approve for first reading a budget amendment in the amount of \$38,740 to pay the Elections legal bill and authorize staff to take the actions presented in the County Administrator's recommendations regarding this issue.

Mr. Malinowski stated Richland County has no responsibility for these bills; therefore, this discussion should be taking place with the State Legislature to recoup the funds from the State. Also, he suggested pursuing action against the attorney retained by the Election Commission for not removing the Commission members from the lawsuit.

Ms. Dickerson inquired if the County would become a party to this lawsuit if they pay the legal fees.

Mr. Smith reiterated the County is not a party to the lawsuit.

Mr. Rush inquired if staff researched the budgets of other counties Elections Offices.

Mr. Seals stated they did not research other budgets.

Mr. Rush and Ms. Myers inquired about the Council's authority regarding the oversight component of the Administrator's recommendation.

Mr. Seals stated the oversight authority would be a part of the overall budget process.

Mr. Rush expressed his concern over the precedent this action will be setting.

Mr. Smith gave a brief overview of the lawsuit, the findings, and the subsequent actions of the court.

Mr. Pearce amending his original motion as follows: to investigate opportunities to be reimbursed for the payment of the legal bills.

<b><u>FOR</u></b>	<b><u>AGAINST</u></b>
Rose	Malinowski
Jackson	Rush
Pearce	
Livingston	
Dickerson	
Myers	
Manning	
Jeter	

The vote was in favor.

### **REPORT OF THE CLERK OF COUNCIL**

- a. Community Development Bus Tour, September 23<sup>rd</sup>, 9:00 a.m. – 1:00 p.m., Council Chambers** – Ms. Onley reminded Council of the Community Development Bus Tour that will be showcasing the projects completed utilizing CDBG funds. The tour is scheduled for September 23<sup>rd</sup> at 9:00 a.m. Those attending are requested to meet in Council Chambers.
- b. Broad River Road Branding and Logo Unveiling, September 26<sup>th</sup>, 6:30 p.m., St. Andrews Park** – Ms. Onley reminded Council of the upcoming Broad River Road Branding and Logo Unveiling.
- c. 2017 Council Retreat Location Recommendations** – Ms. Onley requested Council members submit their Council Retreat location recommendations to the Clerk's Office by Wednesday, September 28<sup>th</sup>.
- d. Councilwoman Dixon Appreciation** – Ms. Dixon expressed her appreciation for the flowers sent by County Council

**POINT OF PERSONAL PRIVILEGE** – Mr. Pearce wished Mr. Rob Perry a happy 40<sup>th</sup> birthday.

### **REPORT OF THE CHAIR**

- a. Personnel Matter** – This item was taken up in Executive Session.

- b. 2016-2017 Strategic Plan Statement – No action was taken.

### OPEN/CLOSE PUBLIC HEARINGS

- An Ordinance Authorizing the execution and delivery of a fee in lieu of tax agreement by and between Richland County and China Jushi USA Corporation (Project Giant) (the “Company”); the execution and delivery of an infrastructure finance agreement by and between Richland County and the Company; the execution and delivery of such documents as may be necessary to effect the intent of this ordinance; and other matters related thereto – No one signed up to speak.
- To approve the conveyance of approximately One Hundred Ninety Seven Acres of real property owned by Richland County located on Pineview Road to China Jushi USA Corporation (Project Giant); to approve a land conveyance agreement for such property and other matter related thereto; and to authorize county officials to take such actions as necessary to effectuate the purposes of this ordinance – No one signed up to speak.

### APPROVAL OF CONSENT ITEMS

- 16-21Mam Carolyn B. Narr, GC to RM-HD (.218 Acres), 6840 Satchel Ford Rd., 14209-03-44 [THIRD READING]
- To Establish and Create a Special Tax District within Richland County, South Carolina, to be known as the “Cary Lake Special Tax District”; to define the nature and level of services to be rendered therein; to authorize the imposition of ad valorem taxes and user service charges therein, which shall be imposed solely within the special tax district; to establish a commission for the tax district and provide the terms therefore; and all other matters related thereto [SECOND READING]
- To Establish and Create a Special Tax District within Richland County, South Carolina, to be known as the “Upper Rockyford Lake Special Tax District”; to define the nature and level of services to be rendered therein; to authorize the imposition of ad valorem taxes and user service charges therein, which shall be imposed solely within the special tax district; to establish a commission for the tax district and provide the terms therefore; and all other matters related thereto [SECOND READING]
- To Establish and Create a Special Tax District within Richland County, South Carolina, to be known as the “Rocky Ford Lake Special Tax District”; to define the nature and level of services to be rendered therein; to authorize the imposition of ad valorem taxes and user service charges therein, which shall be imposed solely within the special tax district; to establish a commission for the tax district and provide the terms therefore; and all other matters related thereto [SECOND READING]
- To Establish and Create a Special Tax District within Richland County, South Carolina, to be known as the “Beaver Dam Special Tax District”; to define the nature and level of services to be rendered therein; to authorize the imposition of ad valorem taxes and user service charges therein, which shall be imposed solely within the special tax district; to establish a commission

for the tax district and provide the terms therefore; and all other matters related thereto  
[SECOND READING]

Ms. Dickerson moved, seconded by Mr. Malinowski, to approve the consent items. The vote in favor was unanimous.

### SECOND READING

**An Ordinance Authorizing the execution and delivery of a fee in lieu of tax agreement by and between Richland County and China Jushi USA Corporation (Project Giant) (the "Company"); the execution and delivery of an infrastructure finance agreement by and between Richland County and the Company; the execution and delivery of such documents as may be necessary to effect the intent of this ordinance; and other matters related thereto** – Mr. Livingston moved, seconded by Mr. Jeter, to approve this item. The vote in favor was unanimous.

**To approve the conveyance of approximately One Hundred Ninety Seven Acres of real property owned by Richland County located on Pineview Road to China Jushi USA Corporation (Project Giant); to approve a land conveyance agreement for such property and other matter related thereto; and to authorize county officials to take such actions as necessary to effectuate the purposes of this ordinance** – Mr. Livingston moved, seconded by Mr. Jeter, to approve this item. The vote in favor was unanimous.

**An Ordinance Approving the execution and delivery of a purchase agreement for certain property located in the Carolina Pines Industrial Park; and other matters related hereto** – Mr. Malinowski moved, seconded by Ms. Dickerson, to defer this item until after Executive Session. The vote in favor was unanimous.

### REPORT OF ECONOMIC DEVELOPMENT COMMITTEE

**Authorizing the expansion of the boundaries of the I-77 Corridor Regional Industrial Park jointly developed with Fairfield County to include certain real property located in Richland County; the execution and delivery of a credit agreement to provide for special source revenue credits to Haven Campus Communities – Columbia, LLC, and other related matters** – Mr. Livingston stated the committee recommended deferral of this item until the October 4<sup>th</sup> Council meeting.

Mr. Pearce inquired if the item was properly before Council since the item is contingent upon the action of Council at the May 17<sup>th</sup> Council meeting being rescinded.

Mr. Livingston stated it was not properly before Council at this time. No further action was needed.

**A Resolution Approving the 2016 Assessment Roll for the Village at Sandhill Improvement District, Richland County, South Carolina** – Mr. Livingston stated the committee recommended approval of this item.

<u>FOR</u>	<u>AGAINST</u>
Rose	
Malinowski	
Jackson	
Pearce	
Rush	
Livingston	
Dickerson	
Myers	
Manning	
Jeter	

The vote in favor was unanimous.

## **RULES AND APPOINTMENTS COMMITTEE**

### **I. NOTIFICATION OF APPOINTMENTS**

- a. **Business Service Center Appeals Board – 3 (Two applicants must have a background in business; other applicant must be a CPA)** – Mr. Malinowski stated the committee recommended re-appointing Mr. Robert Leichtle. The vote in favor was unanimous
  
- b. **Community Relations Council – 3** – Mr. Malinowski stated the committee recommended appointing Ms. Brenda Peterson. The vote in favor was unanimous.

### **II. ITEMS FOR ACTION FROM RULES AND APPOINTMENTS**

- a. **Based on Richland County guideline and grievance procedure move that after all grievance committee hearings are held within the required timeline that the Administrator update and notify Council at the next available Council meeting. This also includes any notices of lawsuits or legal matters. Note: Recently Council was notified of a ruling more than one year later. If there is a timeline for the employee, the chair of the grievance committee and the committee then there must be a timeline to notify Council [JACKSON and MALINOWSKI]** – This item was held in committee until the first meeting in 2017 to allow staff to review and respond to the proposed language.

## **REPORT OF THE TRANSPORTATION AD HOC COMMITTEE**

- a. **Supplemental Intergovernmental Agreement: Farrow Road and Pisgah Church Road Intersection Improvement** – Mr. Livingston stated the committee recommended approval of this item.

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<b><u>FOR</u></b>	<b><u>AGAINST</u></b>
Rose	
Malinowski	
Jackson	
Pearce	
Rush	
Livingston	
Dickerson	
Myers	
Manning	
Jeter	

The vote in favor was unanimous.

- b. Right-of-Way acquisition: Clemson Road and North Springs Intersection Improvement** – This item was taken up in Executive Session.
- c. Utility undergrounding estimate: Atlas Road Widening** – Mr. Livingston stated the committee recommended not moving forward with undergrounding of utilities on this project.

<b><u>FOR</u></b>	<b><u>AGAINST</u></b>
Rose	
Malinowski	
Jackson	
Pearce	
Rush	
Livingston	
Dickerson	
Myers	
Manning	
Jeter	

The vote in favor was unanimous.

- d. Utility undergrounding estimate: Clemson Road Widening** – Mr. Livingston stated the committee recommended not moving forward with undergrounding of utilities on this project.

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<b><u>FOR</u></b>	<b><u>AGAINST</u></b>
Rose	
Malinowski	
Jackson	
Pearce	
Rush	
Livingston	
Dickerson	
Myers	
Manning	
Jeter	

The vote in favor was unanimous.

- e. Construction contract award: Sidewalk package S-5, Senate Street** – Mr. Livingston stated the committee recommending awarding the contract to Armstrong Construction, LLC in the amount of \$128,344.70, which includes a 10% contingency.

<b><u>FOR</u></b>	<b><u>AGAINST</u></b>
Rose	
Malinowski	
Jackson	
Pearce	
Rush	
Livingston	
Dickerson	
Myers	
Manning	
Jeter	

The vote in favor was unanimous.

- f. Mitigation Bank Credit Sales** – Mr. Livingston stated the committee’s recommendation is for deferral in committee. The vote in favor was unanimous.
  - 1. SCDOT: I-20 Widening Project**
  - 2. SCDOT: Hardscrabble Road Widening Project**
  - 3. JR Lex II, LLC**

**OTHER ITEMS**

**A Resolution opposing and objecting to South Carolina Department of Revenue (“SCDOR”) proposed Regulation 117-338 and directing staff to take all appropriate measures to combat the promulgation of the regulation** – Mr. Pearce moved, seconded by Mr. Manning, to approve this item.

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<b><u>FOR</u></b>	<b><u>AGAINST</u></b>
Rose	
Malinowski	
Jackson	
Pearce	
Rush	
Livingston	
Dickerson	
Myers	
Manning	
Jeter	

The vote in favor was unanimous.

**Resolution Designating October 2016 as Community Planning Month in Richland County** – Mr. Jackson moved, seconded by Mr. Livingston, to approve this item.

<b><u>FOR</u></b>	<b><u>AGAINST</u></b>
Rose	
Malinowski	
Jackson	
Pearce	
Rush	
Livingston	
Dickerson	
Myers	
Manning	
Jeter	

The vote in favor was unanimous.

**CITIZENS' INPUT  
(Must Pertain to Items Not on the Agenda)**

No one signed up to speak.

**EXECUTIVE SESSION**

*Council went into Executive Session at approximately 7:30 p.m.  
and came out at approximately 7:46 p.m.*

- a. **Employee Grievance** – Mr. Pearce moved, seconded by Mr. Malinowski, to uphold the Administrator's recommendation. The vote in favor was unanimous.

- b. An Ordinance Approving the execution and delivery of a purchase agreement for certain property located in the Carolina Pines Industrial Park; and other matters related hereto** – Mr. Livingston moved, seconded by Mr. Malinowski, to approve this item. The vote in favor was unanimous.
- c. Right-of-Way acquisition: Clemson Road and North Springs Intersection Improvement** – Mr. Livingston moved, seconded by Ms. Myers, to approve this item. The vote in favor was unanimous.
- d. Personnel Matter** – No action was taken.

**MOTION PERIOD**

- a. Motion to rescind the action on the following item from the May 17, 2016 Council meeting: “Authorizing the expansion of the boundaries of the I-77 Corridor Regional Industrial Park jointly developed with Fairfield County to include certain real property located in Richland County; the execution and delivery of a Credit Agreement to provide for special source revenue credits to Haven Campus – Communities – Columbia, LLC, and other related matters”** – Mr. Livingston stated this item was taken up in Economic Development Committee and the committee recommended approval of the item.

Mr. Pearce requested Legal to advise Council which of their rules allowed action on the above-referenced motion.

Mr. Smith stated Rule 1.7(c)(3) is the rule that allows this motion to be taken up for action.

<b><u>FOR</u></b>	<b><u>AGAINST</u></b>
Rose	Malinowski
Jackson	Pearce
Rush	Dickerson
Livingston	
Myers	
Manning	
Jeter	

The vote was in favor.

- b. Resolution marking the 1-year anniversary of the October 4, 2015 flood event [RUSH]** – Mr. Livingston moved seconded by Mr. Pearce, to adopt the resolution.

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**FOR**

Rose  
Malinowski  
Jackson  
Pearce  
Rush  
Livingston  
Dickerson  
Myers  
Manning  
Jeter

**AGAINST**

The vote in favor was unanimous.

**ADJOURNMENT**

The meeting adjourned at approximately 7:56 PM.

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Torrey Rush, Chair

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Greg Pearce, Vice-Chair

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Joyce Dickerson

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Julie-Ann Dixon

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Norman Jackson

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Damon Jeter

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Paul Livingston

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Bill Malinowski

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Jim Manning

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Dalhi Myers

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Seth Rose

The Minutes were transcribed by Michelle M. Onley, Deputy Clerk of Council