



Richland County Council
Regular Session
April 16, 2019 – 6:00 PM
Council Chambers

COUNCIL MEMBERS PRESENT: Paul Livingston, Chair; Dalhi Myers, Vice-Chair; Joyce Dickerson, Calvin “Chip” Jackson, Gwen Kennedy, Bill Malinowski, Jim Manning, Yvonne McBride and Chakisse Newton

OTHERS PRESENT: Michelle Onley, Beverly Harris, John Thompson, Stacey Hamm, Eden Logan, Larry Smith, Jennifer Wladischkin, Mohammed Al-Tofan, Brad Farrar, Jeff Ruble, Trena Bowers, Cathy Rawls, Ted Powell, Ashiya Myers, Sandra Yudice, Shahid Khan, Allison Stone, Quinton Epps, Nathaniel Miller, Clayton Voignier, Tim Nielsen, Michael Niermeier, Donny Phipps, Kimberly Toney, Chris Eversmann and James Hayes

1. **CALL TO ORDER** – Mr. Livingston called the meeting to order at approximately 6:00 PM.
2. **INVOCATION** – The invocation was led by the Honorable Calvin Jackson
3. **PLEDGE OF ALLEGIANCE** – The Pledge of Allegiance was led by the Honorable Calvin Jackson
4. **APPROVAL OF MINUTES**
 - a. **Special Called Meeting: April 2, 2019** – Ms. Dickerson moved, seconded by Ms. Myers, to approve the minutes as distributed.

In Favor: Malinowski, Jackson, Newton, Myers, Kennedy, Dickerson, Livingston and McBride

Present but Not Voting: Manning

The vote in favor was unanimous.
 - b. **Regular Session: April 16, 2019** – Mr. Jackson moved, seconded by Mr. Malinowski, to reconsider the portion of the minutes related to Item “D” located on p. 35 of the agenda packet.

In Favor: Malinowski, Jackson, Newton, Myers, Dickerson, Livingston and McBride

Present but Not Voting: Kennedy and Manning

The vote in favor of reconsideration was unanimous.

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Mr. Smith stated this item is under the Report of the County Attorney for Executive Session; therefore, he requested the item be deferred until after Executive Session.

Mr. Malinowski moved, seconded by Ms. Dickerson, to approve the minutes as amended.

In Favor: Malinowski, Jackson, Newton, Myers, Kennedy, Dickerson, Livingston and McBride

Present but Not Voting: Manning

The vote in favor was unanimous.

5. **ADOPTION OF THE AGENDA** – Ms. Myers moved, seconded by Ms. Dickerson, to adopt the agenda as published.

Ms. McBride noted the District 3 Hospitality Allocation briefing document had been amended. A copy of the amended allocation was distributed to her colleagues at tonight’s meeting.

Mr. Livingston noted the correct title for Item 6(b) is “A Proclamation Recognizing May 2019 as Building Safety Month”.

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

In Favor: Newton, Myers, Kennedy, Dickerson, Livingston and McBride

Present but Not Voting: Malinowski, Jackson and Manning

The vote in favor was unanimous.

6. **PRESENTATION OF RESOLUTION/PROCLAMATIONS**

- a. Resolution Honoring a Richland County Sheriff’s Department Officer’s Service – Mr. Livingston presented a resolution to Sgt. Jasper Joseph in honor of his retirement from the Sherriff’s Department.
- b. A Proclamation Recognizing May 2019 as Building Safety Month – Ms. Myers presented a proclamation to Donny Phipps recognizing May as Building Safety Month.

7. **REPORT OF THE ATTORNEY FOR EXECUTIVE SESSION ITEMS** – Mr. Smith stated the following items are eligible for Executive Session.

- a. SCE&G Utilities Agreement
- b. Richland County vs. Program Development Team
- c. CHA Consulting, Inc. v. Dennis Corporation Daniel R. Dennis, and Richland County
- d. SC Dept. of Revenue vs. Richland County
- e. Administrator Search Update

8. **CITIZENS' INPUT: For Items on the Agenda Not Requiring a Public Hearing**

Ms. Cletrius Scott spoke in opposition of the nuisance ordinance.

Mr. Jim Herpst and Mr. John Parrish spoke in favor of the overnight event at the airport.

Mr. Tony Mizzell, Mr. Clarence Hill and Mr. Ben Bruner spoke in favor of CHA Consulting, Inc. v. Dennis Corporation Daniel R. Dennis, and Richland County

9. **CITIZENS' INPUT: Must Pertain to Richland County Matters Not on the Agenda**

Mr. Robert Hill spoke in favor of CHA Consulting, Inc. v. Dennis Corporation Daniel R. Dennis, and Richland County.

Mr. Ben Green spoke regarding the County's procurement process.

10. **REPORT OF THE ACTING COUNTY ADMINISTRATOR**

a. Monthly Fund Summary Report – Mr. Hayes gave an overview of the monthly report. The General Fund, as a whole, is trending well. He stated they are working with the departments that have personnel deficits.

b. Total Rewards Implementation [ACTION] – Mr. Malinowski stated too many items are coming onto their agenda under an Administrator's Report asking for action, when they are not going through the normal process we would take. This started with the previous Administration, and it seems to him that we are talking about finances here. This should have been at an A&F Committee meeting, or if it has been acted on, it should be put in its proper place on the agenda. The same thing on the next item. It is a motion made by Palmetto Sport Aviation. He inquired as to when outside groups began putting motions on the agenda. This item also should have gone to committee for vetting, so the committee could come forward with a recommendation. The "Sewer Lift Station" item should have gone to the D&S Committee. He stated Council Rule 1.7 lists six (6) ways that items can be put on the agenda. The main one being through committee action. None of these has followed those rules; therefore, based on that, he thinks they are all improperly before us and need to be put on the agenda properly.

Mr. Malinowski moved, seconded by Mr. Manning, to request the Chair to send Items 10(a), (b) and (c) to their respective committee meetings next week.

Ms. Dickerson stated she has a concern about the motion. She inquired if all of the motions from Administration have to come through Council or does the Administrator have the authority to put an item on the agenda under the Administrator's Report.

Mr. Smith stated the Administrator has the authority to put items on the agenda to give report. Traditionally, they are not action items. The point Mr. Malinowski is raising is that these are issues that require County action. Usually it is a report to the Council giving them information rather than requesting that you take action. He stated there is a rule that talks about how items get on the agenda for purposes of the Council taking action.

Ms. Dickerson stated, for clarification, these items should just be for information only, and to be

sent to committee.

Mr. Smith stated, if Council wanted to take it up, the appropriate way to do it would be for someone to make a motion to waive the rules to address it. Absent that, Mr. Malinowski's point is correct, it would have to go through a committee.

Ms. Dickerson inquired if any of these items are time sensitive.

Dr. Thompson stated Item 10(c): "Overnight Event at the Airport" is time sensitive.

Ms. Dickerson inquired if Mr. Malinowski will allow unanimous consent for Item 10(c).

Mr. Malinowski stated the one problem he has with allowing that one to go through is this information, at the earliest, was sent to us April 8th. Any Council member, in making a motion, has to submit it 2 weeks prior to it appearing on an agenda. A Council member has to wait 2 weeks, but we have a group here, they knew this was coming up, yet they bring this to us one week before they need action on it. They should have gotten better clarification on how Council Rules work. He does not believe that we should start to circumvent the rules for one group, at the expense of Council members and other groups. Therefore, he will not accept Ms. Dickerson's request.

Mr. Livingston stated this body has customarily voted on items that have been presented from the Administrator. He does not know whether that was clearly stated in our rules. The only one he knows has been before Council is the "Total Reward Implementation". He inquired if Item 10(c) has been before Council.

Dr. Thompson stated it was brought to Administration attention early last week.

Mr. Malinowski stated Council, in the past, has said that a Council member needs to sponsor a motion to get it on the agenda. We do not just have groups throw out a motion to staff to get it on the agenda.

Mr. Manning stated he has had a great concern about the rules, the rules not being followed, and what the rules say. We have been working for some time to try to get the revision of the rules, with the things that have been revised, which took about a year. Prior to going to Council, one of the things he requested, in writing, was for that to be an agenda item at the Council Retreat in January, so that we could get a handle on rules, follow our rules, and not rely on what people remember that we did customarily that may not have lined up with our rules. This particular rule is one that he pointed out, in writing, prior to the Retreat, at the Retreat, and again last week when we were asked to submit any thoughts we had about the rules. This is something that he has been putting in writing, and trying to get Council deal with for a long time. He is happy to second a motion that says, "the rules say, what the rules say." Until we fix the rules, or decide to follow the rules, then we should abide by the motion.

Ms. Dickerson stated one of her concerns is people who sponsor events like this did not just start to sponsor that event last week. The event had to have been on somebody's agenda for some time, so that is could have proper time to go through Council's channels. She stated that anyone who wants an event needs to contact your local Councilperson that represents the area in which these events are taking place, so that Councilmember can bring that before Council.

Mr. Malinowski restated his motion as follows: To send the items listed for action under the

Administrator's Report, that have not previously been before us, to a committee for vetting. He would recommend that Item 10(d): "Permission to Survey – SS7462 Verch Locke Sewer Lift Station Area (Richland County)" and Item 10(c): "Overnight Event at the Airport" go to the D&S Committee.

Mr. Jackson stated, although he understands the point that is being made by his colleagues, he wants to go on record to say that it is unfortunate that we are not going to allow this event on April 27th to occur given the fact it would be such a positive event in our community. Because an external group was not aware, nor were they informed, by staff, of the rules they are now being penalized. From what he read, it went through Ms. Brittany Hoyle-Terry, Mr. Larry Smith and Dr. Thompson.

Mr. Manning withdrew his second.

Mr. Manning moved, seconded by seconded by Mr. Malinowski, to not take up Items 10(b), (c) and (d), as action items, under the Report of the Acting County Administrator because Council Rules only allow, in this section, for a report from the County Administrator.

Mr. Manning is happy for Council to figure out where else to put these items on the agenda. He totally agrees with Mr. Jackson about what an outside group did not know, and fixing that. The fact that the Total Rewards Implementation has been before Council before. To him, the issue is the rule says there is not a place for action items under the Report of the Acting County Administrator. He would like for us to follow the rules, but he is happy for us to do whatever we need to do procedurally to get these somewhere else on the agenda.

Ms. Myers stated these items seem to have gone through a lot of vetting. She inquired if these items have been with Administration for a long time.

Dr. Thompson stated:

- Item 10(b) came before Council for a work session;
- Item 10(c) came before Administration last week; the event went out on social media; when he understood it went out on social media and it had not been before Council it was his job to bring it before the body
- Item 10(d) this is a routine request when the City of Columbia wants to do soil testing on areas where they have their particular lines

Ms. Dickerson made a substitute motion, seconded by Mr. Manning, to take up these item under "Other Items".

Mr. Malinowski stated we do not have a proper motion before us on Item 10(c). There is not a Council member that has done anything with this. Also, on p. 137, it says, "There are concerns about the precedent this sets for future events at the airport as well as other County facilities." We could be opening up ourselves...

Mr. Livingston stated we are talking about moving the items, not approving them.

Mr. Malinowski stated he is giving reasons why we should not move the items.

Mr. Malinowski made a 2nd substitute motion to only take up Item 10(b).

The motion died for lack of a second.

In Favor: Jackson, Manning, Dickerson and Livingston

Opposed: Malinowski and Myers

Present but Not Voting: McBride

The vote was in favor.

- c. Overnight Event at the Airport [ACTION] – This item was taken up under “Other Items.”
- d. Permission to Survey – SS7462 Verch Locke Sewer Lift Station Area (Richland County) [ACTION] – This item was taken up under “Other Items.”
- e. Transportation Penny Program Transition Update – Mr. Niermeier stated gave a brief overview of the transition. They worked with Operational Services on a facility that would allow all the staff to have a place to work. Ms. Logan is heading up recruit for additional personnel. They participated in an OSBO outreach event at the Decker Center and reassured the small business community.

Ms. McBride inquired about the need for new vehicles.

Mr. Niermeier stated they will be hiring inspectors, engineers, and project managers to be do work in the field that is currently be performed by the PDT, so those individuals will require vehicles.

Ms. McBride inquired if these are new vehicles or new vehicles to the department.

Mr. Niermeier stated they are new vehicles.

Ms. McBride inquired if this cost was included in the savings when moving transportation back in house.

Mr. Niermeier stated he is not sure if he can answer that question currently. He knows with the savings we would have it would be able to be covered.

Ms. McBride stated, at one time, we had a surplus of vehicles. She inquired as to what happened to those vehicles, and why is it necessary to purchase new ones.

Dr. Yudice stated there is a surplus of vehicles, and we are repurposing some of those vehicles for other departments. We can do that for the Transportation Department, if we have additional vehicles.

Ms. Dickerson inquired as to what happened to the vehicles we already purchased, or are those vehicles owned by the PDT.

Dr. Thompson stated the department has 5 vehicles. Those vehicles are in our possession, and titled and tagged to Richland County. In terms of doing the additional work, it is going to take some additional vehicles to ensure that we can provide the proper oversight and inspection.

Dr. Yudice stated they will speak to the Fleet Manager and have him give us an inventory of the vehicles that we can repurpose. They will present the information at the next Council meeting.

Ms. Dickerson stated she believes that we need to do a needs analysis to ensure that we are not duplicating items we have already paid for.

Ms. Myers requested that an inventory of all the vehicles in the County's fleet be presented, and not just the ones that can be repurposed. She would also would like some more substantial documentation that we can demonstrate to the public that we are transitioning this in a way that makes dollars and cents, and that the substantiation behind it is consistent with the need.

Mr. Jackson requested a brief update on how the initial transition meeting went with the PDT.

Mr. Niermeier stated the initial discussion was to have both sides brainstorm and think of items that need to happen sooner than later. They have met weekly, and they had different entities there (Budget/Finance, Project Management, etc.) They have been very forthcoming with the information requested, and in-house staff has asked follow-up questions to gain clarification.

Mr. Jackson inquired if the PDT has been provided the transition plan.

Mr. Niermeier stated they have not been given it yet. He had to do some updates on it, based on some new information.

Dr. Thompson stated, for clarification, they have been provided the initial transition plan.

Mr. Jackson inquired if the PDT has responded to the plan.

Dr. Thompson stated that is the reason they are having the weekly meetings.

Mr. Manning requested more information regarding the buildout of the 2009 Hampton Street property.

Mr. Niermeier stated he and staff have identified spaces within the building, as it exists, to put new inspections, engineers, managers, and existing staff. And, if we need to remove walls, or add walls to accommodate the office spaces.

Ms. Myers stated this is huge transition, in a short period of time. The City of Charleston, and other cities, have done this kind of thing. She inquired if we have consulted with an expert from any of those places, or are we simply relying on what we think is best. On one side we have what we think is best, and on the other side we have what the PDT thinks is best. Somewhere in all of that, there are experts who can make sure that the County gets this done.

Mr. Niermeier stated there has been a lot of discussions with the City of Charleston on how they did it, and taking that model and mimicking those areas that apply to Richland County.

Ms. Myers stated we have a lot of projects in the hopper. For example, an expert could come in and say, "Don't design these 10, but you better finish these 5. Don't do this, but you better do that." She inquired if we have consulted with any expert to give us some guidance on the projects that we are trying finish before we run the table on this thing.

Mr. Niermeier stated, as far as project assumption, there has been no one engaged outside of County staff to do an honest evaluation of what we are going to assume, what we are resourced to assume, and what we are going to allow the PDT to continue with.

Ms. Myers stated she would strongly suggest that we need more guidance than just what we think, or the PDT thinks, to make sure when we do this, we are conserving as much money as we can, and we are spending the money that we are going to spend the money as wisely as we can.

Mr. Livingston stated he would like see the costs associated with the vehicles, retrofit of the building, etc., so he can measure the savings.

11. **REPORT OF THE CLERK OF COUNCIL**

- a. CASA Volunteer Appreciation Luncheon, April 17, Noon, Doko Manor, 100 Alvina Hagood Circle, Blythewood – Ms. Onley reminded Council of the upcoming CASA Volunteer Appreciation Luncheon.
- b. REMINDER: Budget Work Session, April 29, 4:00 – 6:00 PM, Council Chambers – Ms. Onley reminded Council that the first Budget Work Session will be held April 29th in Council Chambers.
- c. Engage Richland: Severe Weather Awareness, April 30, 6:00 PM, Emergency Services Dept. – Ms. Onley reminded Council of the upcoming Engage Richland event that will be held in the Emergency Services Department.

12. **REPORT OF THE CHAIR**

- a. Administrator Search Update – This item was withdrawn.

13. **OPEN/CLOSE PUBLIC HEARINGS**

- a. An Ordinance Authorizing, pursuant to Title 12; Chapter 44, South Carolina Code of Laws, 1976, as amended, the execution and delivery of a fee agreement between Richland County, South Carolina and Amcor Rigid Plastics USA, LLC, a limited liability company organized and existing under the laws of the State of Delaware concerning a new project; authorizing and providing with respect to an existing project for the conversion of an arrangement for fee-in-lieu of tax payments between Richland County and Amcor Rigid Plastics USA, LLC under Title 4, Chapter 12, South Carolina Code of Laws, 1976, as amended, to an arrangement under Title 12, Chapter 44, South Carolina Code of Laws, 1976, as amended; and matters relating thereto – No one signed up to speak.

14. **APPROVAL OF CONSENT ITEMS**

- a. 19-001MA, Michael Niermeier, RU to OI (33.16 Acres), Lower Richland Boulevard TMS # R12700-03-29 [THIRD READING]
- b. 19-003MA, Anna Fonseca, OI to RS-HD (1.55 Acres), Farrow Road and Plantation Drive, TMS # R17300-02-22 [THIRD READING]
- c. 19-005M, Ray L. Derrick, RU to NC (3.76 Acres), 1012 Bickley Road, TMS # R02415-02-01 [THIRD READING]
- d. 19-007MA, Deborah Stratton, RU to NC (2 Acres), 2241 Clemson Road, TMS # R20281-01-24 [THIRD READING]

Ms. Dickerson moved, seconded by Ms. Kennedy, to approve the consent items.

In Favor: Malinowski, Jackson, Newton, Myers, Kennedy, Dickerson, Livingston and McBride

Present but Not Voting: Manning

The vote in favor was unanimous.

15. **THIRD READING ITEMS**

- a. An Ordinance Amending the Richland County Code of Ordinances; Chapter 18, Offenses, to add Section 18-7, Public Nuisances; and Amending Chapter 16, Licenses and Miscellaneous Business Regulations, Section 16-18, relative to license suspension and revocation for a business determined to be a public nuisance – Mr. Manning moved, seconded by Ms. Dickerson, to approve this item.

Mr. Malinowski stated, on p. 159, (b) states, if there have been six (6) or incidents during the preceding twelve (12) months, which equates to one (1) incident every two (2) months. In his mind, that does not sound like a serious amount. However, he inquired how this number was determined. He also asked what other jurisdictions, of similar size to Richland County, did when it came to situations like this, and the potential for public nuisance. He has not received an answer to either of those questions. He inquired what determines the previous twelve (12) months (i.e. calendar year, fiscal year, or when the first incident happens). He inquired what the definition is of a crime against property.

Mr. Smith stated that is intended to describe crimes related to damage or destruction of property. It could also relate to incidents where someone is breaking or entering. Rather than listing all of the possible offenses that could fall under that category, it was just a broad category of crimes against property. There may be various other crimes, not just limited to the ones that he mentioned, that may fit under the category.

Mr. Malinowski inquired if shoplifting would be such a crime.

Mr. Smith stated he would not necessarily put shoplifting in that category.

Chief Cowan apologized and stated he thought the answers had been given to him regarding his previous questions. As far as the other jurisdiction, the team that was developed to look at this researched all over and finding other jurisdictions, of our similar size, that has an ordinance in place, that would be fair and balanced, were not out there. They mirrored the ordinance against what the City has in place, what we developed between staff and the Legal Department, and what we felt would be balanced and fair for both the businesses and public safety.

Mr. Malinowski stated, again, one (1) incident in two (2) months does not seem excessive in his mind. We have got motor vehicle deaths at intersections that occur more than 1 in 2 months, but we are not closing those intersections down.

Chief Cowan stated the whole purpose of this is to look at violent crime, and public safety related to the violence in the communities. Only those locations that are operating unlawfully or illegally that are negatively impacting the public safety.

Mr. Malinowski stated he can support this 100%, if they are operating unlawfully or illegally, but

the intent, the way it is here, if an incident happens at a business establishment that he owns, which maybe happens in a parking lot or sidewalk in front of the business, he is being charged with the "hash marks" until it leads up to six (6) in twelve (12) months, then the business is closed. He stated he may not be responsible for those incidents. We are putting blame on business owners when there may not be blame to be assessed on them. For example, if we have a coyote problem and they keep breaking into farmer's chicken houses, do we tell the farmers to close the chicken houses or do we attack the problem and go after the coyotes. He stated that is what we have here. We have a group of people that are creating the problems, so he does not know why we attack the businesses and not go after the groups of people causing the problems.

Chief Cowan stated, respectfully, they are not attacking the businesses.

Mr. Malinowski stated, on p. 160, it states, within two (2) calendar days of shuttering a business the Business Service Center has to act on this particular request to shutter the business. Then, it says, Council within seven (7) calendar days of the determination of the Business Service Center, or as soon thereafter as practical. He stated this could take months before it comes to Council. If this happens at the end of July, Council is in recess for all of August. If it happens in the middle of December, Council does not meet at the end of December, or in January. He thinks we need to change this to a reasonable amount of days, and Council must meet within that reasonable amount of days. Further in the ordinance, it indicates what happens to a business once they are shuttered, but it does not say, at what point, they can reopen, if they are found guilty. In any other violation, if a person is found guilty, there sentenced to a particular period of time, and then they are given their freedom and rights back. It seems to him, that we would put a period of time that the punishment takes place. He thinks the ordinance is too broad, and does not cover the entire situation for the people out there. While it does mention, as determined by a court of law. It then says, "or pursuant to Richland County Code of Ordinances." He inquired since when can somebody be found guilty, never to have their business opened up again because of a Richland County ordinance, and not going to a court where an actual judge or attorney has some say in this. He inquired if there is anything we can do to adjust this to make it more meaningful and justifiable to those places that you want to charge. If we do not want to have these businesses within the County, then we need to have an ordinance created to eliminate these businesses. We do not need to try to create an ordinance that will give us the opportunity to put them out of business.

Mr. Malinowski made a substitute motion to address all the points he made. A group can have a day in court, with an attorney, if their license is suspended, or they are shuttered. He thinks the shuttering, and who is allowed to enter the building should not just be the Sheriff permitting them, but the Sheriff, in conjunction with the Administrator, will determine who and when individuals can go into these buildings. He would also like to see the calendar days for Council to hear a particular appeal reduced to a reasonable number of days.

Ms. Newton stated, the way she reads this, with regard to the purpose of declaring a nuisance, the last paragraph says, we are looking at things that are affecting public decency, peace and order, which are intermittent, cyclical, continual, recurring, and of a constant nature. She always interpreted this that this is not your run of the mill problem, but a persistent problem we are fixing. She inquired, if the items listed under (b) on p. 159, which is the six (6) or more law or peace officers or Computer Aided Dispatches, fits the recurring, continuous problem we are trying to address.

Chief Cowan responded in the affirmative, due to the severity of the items listed.

Mr. Jackson stated he was looking at some of the same issues, in regards to some of the concerns Mr. Malinowski raised. He certainly does not want to do anything that has unintended consequences for businesses out there. The critical issue is that we are wanting to be certain that those businesses that are operating illegally, and as a result of them operating illegally, violent acts are occurring at these illegal establishments, not be allowed to continue to operate illegally. If there are legitimate businesses out there, who are operating legitimately, and unfortunate incidents occur, we do not hold them liable for those incidents that occur, and use it as an excuse to shut them down. One of the things he would like for us to consider is to look at the possibility of implementing this, but for an abbreviated period of time (i.e. 6 months), then come back before we make it permanent. At the end of the six (6) month period, determine what impact it has had on businesses.

Mr. Malinowski inquired what happens when an ambulance is called to a scene for one reason and it turns out it was legitimate cause. It was not due to some type of physical violence or crime. We are not taking into consideration any adjudication. We are just saying if someone is called to an establishment for an incident it is one (1) mark out of your six (6). It does not say, if in the end it is found this was adjudicated as a not guilty, the mark is eliminated. Also, in the "Criminal Enforcement. Penalties" section, it indicates that any of these individuals "who erects, establishes, continues, maintains, uses, owns, occupies, leases, or releases, or serves as lessor or lessee of any building in such a way as to create a public nuisance shall guilty of a misdemeanor". We are talking about a misdemeanor with a \$500 fine, not exceeding 30 days in prison. That does not seem too serious to me if it is only a misdemeanor. How do we get the seriousness later on? In the beginning of the ordinance it states, "WHEREAS, in the six (6) months preceding the adoption of the emergency ordinance, there had been seventeen (17) shootings at drinking places and night clubs in unincorporated Richland County." He would like to see a list of those 17 places. If we have 17 places, and they are all individual places, then he would hardly think that is a public nuisance, according to this ordinance.

Chief Cowan stated the information has been provided to Council, and it has also been in the news. These are not 17 different locations; these are specific locations that have constituted the bulk of the shootings.

Mr. Jackson made a substitute motion, seconded by Mr. Malinowski, to adopt the proposed ordinance for a period of six (6) months, then come back with detailed data at the end of that period to determine if the ordinance needs to be modified before it goes into effect permanently.

Ms. Myers stated we already have a temporary ordinance in place, so why do we not just extend it while we refine the ordinance. She inquired if the temporary ordinance is doing what needs to be done, since it is essentially this language unmodified.

Chief Cowan stated the ordinance is doing what needs to be done, but he does not know if the ordinance can be extended.

Ms. Myers stated her constituents, as well as Mr. Manning's, are keenly interested in making sure there is something in place that stops all these shootings.

Ms. Myers made a second substitute motion to leave the emergency ordinance in place for an additional six (6) months. At the end of that time, we will have refinements that can be put in place.

Mr. Farrar stated it is not the ideal situation to extend the emergency ordinance, unless you are going to confirm that there is an emergency going on. Basically, the intent, under State law, is not to

carry it out. You would have to say there is an ongoing emergency. It should be an exclusive, very rare situation, that you would do an emergency ordinance, since there is no public hearing on the emergency ordinance. He stated you could do a short-term, and get to the same place. He also pointed out there are so many checks and balances in what has been proposed. First, everyone focuses on the emergency abatement, which is the shuttering of the businesses. This is an ordinance like any other, so if someone is found to be a nuisance, you would get a uniform ordinance summons issued by a Code Enforcement/Law Enforcement officer. You would go to Magistrate Court, request a jury trial, and hire an attorney. It takes about 2 years to get a case tried through the Magistrate Court system. The emergency situation is, if it is so egregious. For example, the City of Columbia has used their ordinance one (1) time since instituting their ordinance. Secondly, the County Administrator has to agree to the shuttering.

Mr. Jackson moved, seconded by Ms. Myers, to call for the question.

In Favor: Jackson, Newton, Myers, Dickerson, Livingston and McBride

Opposed: Malinowski and Manning

Present but Not Voting: Kennedy

The vote was in favor.

Mr. Manning stated he would like for us to document for the record where the item will be placed on the agenda after the six (6) months.

Ms. Myers stated at the end of six (6) months we are looking for data. What Mr. Jackson is suggesting that we adopt the ordinance, and at the end of six (6) months the Sheriff's Department and staff will provide data as to the effectiveness of the ordinance. At that point, if we need to make changes we would, but she does not think Mr. Jackson was suggesting stopping and starting.

Mr. Smith stated, if we are not dealing with sunset situation, and what we are talking about is passing the ordinance, as it is, at this point. Then, reviewing and getting the information Mr. Jackson has called for, the Council could amend the language, or if it was found the ordinance did not work, the ordinance could be repealed.

Ms. Dickerson requested the Clerk's Office to document when the six (6) months will expire, and notify Council 30 days prior to the expiration.

In Favor: Jackson, Newton, Myers, Kennedy, Manning, Dickerson, Livingston and McBride

Opposed: Malinowski

The vote was in favor of the substitute motion.

Mr. Livingston stated his concern is you have the emergency and the other ordinance in place, at the same time.

Mr. Farrar stated the emergency ordinance expires on the 61st day after passage, under State law.

Mr. Manning inquired if we can rescind the emergency ordinance, after we reconsider the action on

this item.

Mr. Farrar stated the emergency ordinance is not on the agenda.

Mr. Manning stated, if we vote yes to reconsider this, then can we amend the motion and add that this will go into effect when the emergency ordinance expires.

Ms. Dickerson moved, seconded by Mr. Manning, to reconsider this item.

In Favor: Jackson, Newton, Myers, Kennedy, Manning, Dickerson, Livingston and McBride

Opposed: Malinowski

The vote was in favor of reconsideration.

Mr. Jackson moved, seconded by Ms. Dickerson, that this item will go into effect when the temporary ordinance expires.

In Favor: Jackson, Newton, Myers, Kennedy, Manning, Dickerson, Livingston and McBride

Opposed: Malinowski

The vote was in favor.

Ms. Dickerson moved, seconded by Mr. Jackson, to reconsider this item.

In Favor: Malinowski

Opposed: Jackson, Newton, Myers, Kennedy, Manning, Dickerson, Livingston and McBride

The motion for reconsideration failed.

- b. An Ordinance Authorizing, pursuant to Title 12; Chapter 44, South Carolina Code of Laws, 1976, as amended, the execution and delivery of a fee agreement between Richland County, South Carolina and Amcor Rigid Plastics USA, LLC, a limited liability company organized and existing under the laws of the State of Delaware concerning a new project; authorizing and providing with respect to an existing project for the conversion of an arrangement for fee-in-lieu of tax payments between Richland County and Amcor Rigid Plastics USA, LLC under Title 4, Chapter 12, South Carolina Code of Laws, 1976, as amended, to an arrangement under Title 12, Chapter 44, South Carolina Code of Laws, 1976, as amended; and matters relating thereto – Mr. Jackson moved, seconded by Ms. Dickerson, to approve this item.

In Favor: Malinowski, Jackson, Newton, Myers, Kennedy and Dickerson

Present but Not Voting: Manning, Livingston and McBride

The vote in favor was unanimous.

16. **SECOND READING ITEMS**

- a. An Ordinance Amending the Richland County Code of Ordinances, Chapter 16, Licenses and Miscellaneous Business Regulations, by adding Section 16-23, "Health Massage, Bodywork Therapists, and Massage Establishments" – Mr. Manning moved, seconded by Mr. Jackson, to approve the redlined ordinance in the agenda packet, with the exception of on p. 237, Section (4) Exceptions, that where it says personal trainers, to add the language "registered with the SC Labor, License and Regulation".

Ms. Newton stated, for clarification, in the event that a trainer works at a facility that provides trainers, would the trainer operate under their license.

Mr. Manning responded, if they legally do by State law. In addition, on p 229, Section (9) Hours of Operation, that we follow what he shared, with Council, from the Program Manager for Government Relations with the American Massage Therapy Association, and insert the hours of 10 p.m. to 5 a.m.

Ms. Dickerson stated, for clarification, there will be no work done between the hours of 10 p.m. and 5 a.m.

Ms. Myers inquired, on Section (11) Employment of persons found guilty of criminal sexual offenses, if the best practices say that people who have registered on the National or State Sex Offender List cannot be personal trainers. In essence, we are banning those individuals from a legitimate line of work, unless we are defining all massage therapy spaces as places where sexual activity takes place. She does not understand why being registered on the National Register of Sex Offenders precludes you from being a personal trainer.

Mr. Manning stated what he was sent, by the American Massage Therapy Association, says, "shall not have any prior conviction for an offense involving sexual misconduct with a child, including sexual abuse, sexual assault, sexual conduct, sexual molestation, sexual exploitation..."

Ms. Myers stated that involves sexual crimes with a child. This is anyone on the National or State Sex Offender list, which is different than being a child predator. We are saying that, if you are a personal trainer, and you are on the National Sex Registry List, you cannot work in any of these places.

Mr. Manning stated they used the ordinance from Mecklenburg County, North Carolina, and when concerns were raised about the language regarding "prostitution or other sexual offenses", we then said that if someone was on the National or State sex offender list...

Ms. Myers inquired as to why we do not just use the language Mr. Manning read from the American Massage Therapy Association.

Mr. Manning stated, where we probably got the language include in the ordinance is as follows: "Shall not be registered sex offender, or required by law to register as a sex offender and shall not have any prior conviction for an offense involving sexual misconduct."

Ms. Myers stated the "and" means it requires both.

Mr. Manning stated, if we are going to use that section, it starts off with, "Are 18 years of age or older, and shall not have any prior conviction for an offense involving sexual misconduct with a

child, including sexual abuse, sexual assault, sexual conduct, sexual molestation, and sexual exploitation.” He stated he will amend his motion to add the language from the American Massage Therapy Association.

Ms. Dickerson stated she would like to have the hours of operation amended to 6 a.m. to 10 p.m.

Mr. Manning stated he is deeply concerned about any sexual trafficking activity that is happening, or may happen in the County, so anybody offering anything more restrictive he is in agreement with because he is trying to get the ordinance the best it can be.

Ms. Newton stated she does not know what the objection is with 5 a.m., but as a person who does occasionally hit the gym for those services at 5 a.m., that is a legitimate business hour for people who may have small kids, and makes a tremendous difference.

Mr. Malinowski stated we do not have the briefing document in front of us that we previously had; however, that briefing document did make some comment about the proposed amendments may restrict or negatively impact legitimate businesses that offer these services. It also said, it was unknown if additional staff may be necessary to enforce the proposed ordinance. Lastly, he would like to know if law enforcement has been asked for their input on the actual enforcement of this ordinance, and if they have any comments regarding potential times or problems with what is included in the ordinance. He requested answers to his questions prior to Third Reading.

Mr. Manning stated, in terms of law enforcement, it was Captain Heidi Jackson, Richland County Sheriff’s Department Victim Services, that brought to us the Mecklenburg County ordinance.

Mr. Malinowski made a friendly amendment to add the case law back in, that was previously deleted, to provide the rationale for the ordinance.

Mr. Livingston stated one thing he is having “heartburn” over is telling someone they cannot have these services provided after 10 p.m.

In Favor: Malinowski, Jackson, Newton, Myers, Kennedy, Manning, Dickerson, Livingston and McBride

The vote in favor was unanimous.

- b. An Ordinance Consenting to the conversion of an existing lease purchase agreement between Richland County (the “County”) and Mars Petcare US, Inc., f/k/a Kal Kan Foods, Inc. (the “Company”) to a fee in lieu of tax agreement pursuant to Title 12, Chapter 44, South Carolina Code, 1976, as amended; authorizing the execution and delivery of a fee in lieu of tax (conversion) agreement by and between the County and the Company; authorizing the reconveyance by the County to the Company of the property subject to such lease purchase agreement and other related matters – Mr. Jackson moved, seconded by Ms. Myers, to approve this item.

In Favor: Malinowski, Jackson, Newton, Myers, Kennedy, Dickerson and Livingston

Present but Not Voting: Manning and McBride

The vote in favor was unanimous.

- c. Authorizing the execution and delivery of a fee-in-lieu of ad valorem taxes agreement by and between Richland County, South Carolina and an entity known for the time being as "Project M19" to provide for payment of a fee-in-lieu of taxes; and other related matters – Mr. Jackson moved, seconded by Ms. McBride, to approve this item.

In Favor: Malinowski, Jackson, Newton, Myers, Dickerson and Livingston

Present but Not Voting: Kennedy, Manning and McBride

The vote in favor was unanimous.

17. **REPORT OF THE ECONOMIC DEVELOPMENT COMMITTEE**

- a. An Ordinance Authorizing, pursuant to Title 12, Chapter 44, South Carolina Code of Laws, 1976, as amended, the execution and delivery of a fee agreement between Richland County, South Carolina and Kemira Chemicals, Inc., a corporation organized and existing under the laws of the State of Delaware concerning a new project; authorizing and providing with respect to an existing project for the conversion of an arrangement for fee-in-lieu of tax payments between Richland County and Kemira Chemicals, Inc. under Title 4, Chapter 12, South Carolina Code of Laws, 1976, as amended, to an arrangement under Title 12, Chapter 44, South Carolina Code of Laws, 1976, as amended; and matters relating thereto [FIRST READING] – Mr. Jackson stated the committee recommended approval of this item.

In Favor: Malinowski, Jackson, Newton, Myers, Kennedy, Dickerson and Livingston

Present but Not Voting: Manning and McBride

The vote in favor was unanimous.

- b. Authorizing the execution and delivery of a fee-in-lieu of ad valorem taxes and incentive agreement by and between Richland County, South Carolina and [Project ES] to provide for payment of a fee-in-lieu of taxes; authorizing certain special source credits; and other related matters [FIRST READING] – Mr. Jackson stated the committee recommended approval of this item.

In Favor: Malinowski, Jackson, Newton, Myers, Kennedy, Dickerson and Livingston

Present but Not Voting: Manning and McBride

The vote in favor was unanimous.

18. **REPORT OF THE RULES AND APPOINTMENTS COMMITTEE**

I. **NOTIFICATION OF APPOINTMENTS**

- a. Planning Commission – 1 – Ms. Newton stated the committee recommended appointing Mr. Jason Branham.

In Favor: Malinowski, Newton, Myers, Kennedy, Dickerson, Livingston and McBride

Present but Not Voting: Jackson and Manning

The vote in favor was unanimous.

- b. Building Codes Board of Appeals – Eight (8) Vacancies (One applicant must be from the Architecture Industry, One from the Plumbing Industry, One from the Electrical Industry, One from the Engineering Industry, One from the Gas Industry, One from the Building Industry and Two from the Fire Industry as alternates) – Ms. Newton stated the committee recommended appointing Mr. Madison Devine (Engineering) and Mr. Doug Ford (Plumbing), and re-advertise the remaining vacancies.

In Favor: Malinowski, Jackson, Newton, Myers, Kennedy and Dickerson

Present but Not Voting: Manning, Livingston and McBride

The vote in favor was unanimous.

19. **OTHER ITEMS**

- a. FY19 – District 3 Hospitality Tax Allocations – Mr. Manning moved, seconded by Ms. Dickerson, to approve this item.

In Favor: Malinowski, Jackson, Newton, Myers, Kennedy, Manning, Dickerson, Livingston and McBride

The vote in favor was unanimous.

Mr. Manning moved, seconded by Ms. McBride, to reconsider this item.

Opposed: Malinowski, Jackson, Newton, Myers, Kennedy, Manning, Dickerson, Livingston and McBride

The motion for reconsideration failed.

- b. FY19 – District 2 Hospitality Tax Allocations – Mr. Manning moved, seconded by Ms. Dickerson, to approve this item.

In Favor: Malinowski, Jackson, Newton, Myers, Kennedy, Manning, Dickerson, Livingston and McBride

The vote in favor was unanimous.

Mr. Manning moved, seconded by Ms. McBride, to reconsider this item.

Opposed: Malinowski, Jackson, Newton, Myers, Kennedy, Manning, Dickerson, Livingston and McBride

The motion for reconsideration failed.

Mr. Manning inquired how these organizations will be notified that Council approved this funding.

Mr. Hayes stated they are initially sent an email, then they are provided a grant agreement.

Mr. Manning stated, two weeks ago, two organizations were provided funding with District 8 money, and they have not heard anything.

Mr. Hayes stated he will follow up on those allocations.

Total Rewards Implementation– Ms. O’Berry stated the recommended action is to adopt the Total Rewards Study recommendations, and support the actions necessary for Richland County Government to become an Employer of Choice. The item before you is to implement the recommendation of the Total Reward Study, in phases, through the budget process, over the next several years. This will include efforts, and actions, by department supervisors and employees focused on moving Richland County Government toward an Employer of Choice.

Ms. Dickerson moved, seconded by Mr. Malinowski, to forward this item to committee.

Ms. Newton requested, when this item goes to committee, that staff provide the timeframe for implementation of the study.

Dr. Thompson stated this item is time sensitive and may impact us being able to put this in the Biennium budget.

In Favor: Malinowski, Jackson, Newton, Myers, Kennedy, Dickerson, Livingston and McBride

Present but Not Voting: Manning

The vote in favor was unanimous.

Overnight Event at the Airport – Mr. Manning moved, seconded by Mr. Jackson, to approve this item.

Mr. Malinowski inquired, if this motion is properly before us, since it is coming from someone in the community, and not a Councilmember.

Mr. Smith stated, it is his understanding, from Mr. Eversmann, that this is a motion that came from the Airport Commission, which is a body that Council appoints. It is also his understanding, in terms of this process, that it started with the Airport Commission, through Mr. Eversmann, then the information flowed to the Administrator and the Legal Department.

Mr. Malinowski stated, on p. 137, under the Risk Management Director’s comments, it says, “There are concerns about the precedent this sets for future events at the airport as well as other County facilities.” That is why this should have been in a committee, in order to have these concerns addressed.

Mr. Smith stated, on p. 138, is the vote that came from the Airport Commission, which speaks to the origin of this particular item.

Mr. Malinowski stated the item does not follow the procedural and precedence Council has set, and rules enacted on in the past. If there is a question about potential risk to the County, that also needs to be addressed because we could be heading down a slippery slope. He stated, unless staff is working for free, this item did require the expenditure of County funds since staff was required to review the request.

Ms. Newton stated, for clarification, this item is before Council because the Airport Commission voted to bring it to Council.

Mr. Smith stated, it is his understanding, that this is an event that was brought to the Commission. The Commission then acted on the request, voted to hold this event and to recommend Council, pursuant to their vote, authorize them to go forward with the event, since the County owns the property where the event will take place.

Ms. Newton inquired, following this procedure, would the School Board or other organizations be able to send things to the agenda this way.

Mr. Smith stated, typically, if it is made in the form of a motion, motions come from members of Council. In this particular situation, as he understands it, they are making a request. Even if it were in the form of a motion, at the end of the day, the County still has the authority to waive your rules, if that is what you want to do.

Mr. Jackson stated he is not opposed to abiding by the rules, and if this was not a time sensitive matter, he would want us to stick to the rules. He would hate for an outside organization, though they are affiliated through the Airport Commission, with good intentions to hold an event, using our facilities, and being responsible and willing to accept the liability, be denied the opportunity because they did not follow our rules. He does not want us to penalize an organization simply because of this procedural misstep.

Ms. Dickerson stated this vote took place on April 8th. This event had to be planned prior to April 8th, so they would have been able to vote. One of the persons that spoke this evening said, if they could not have stoves and cooking, he could not support this.

Mr. Manning inquired if the Council liaison was at the Airport Commission meeting.

Mr. Eversmann stated the liaison was not present; however, the liaison has seen the motion, as passed.

Ms. McBride inquired as to how much money has been invested in this project.

Mr. Eversmann stated it would be hard to quantify County staff time, but no County funds have been expended on the project. The Experimental Aircraft Association, which is a tenant at the airport, routinely holds events like this.

Ms. McBride inquired if there were times when Council took up issues that did not come directly from Council.

Mr. Smith stated there are times when someone has raised a Point of Order saying the rules are not being followed, and a motion has been made to waive the rules to take up the matter.

Ms. McBride stated she does not know if there is a way to correct this, and if there is not a way to correct, then if we approve it, we are approving something that is outside of the process.

Mr. Smith stated Council would be approving something that came to you as a motion, and there are certain ways that motions get on your agenda. So, that would be outside of the process, unless you waive the rules.

Mr. Jackson made a substitute motion, seconded by Mr. Manning, to waive the rules and approve this item.

Ms. Dickerson inquired if you need unanimous consent to waive the rules.

Mr. Smith stated, according to Rule 6.1, you do have to have unanimous consent to waive the rules.

Mr. Manning made a second substitute motion to amend the rules, in order to vote on this item.

Mr. Livingston stated the only problem is you have to have more than one reading.

Mr. Manning made a second substitute motion, seconded by Mr. Jackson, to suspend the rules.

In Favor: Jackson, Kennedy, Manning and Livingston

Opposed: Malinowski, Myers and Dickerson

Abstain: McBride

Present but Not Voting: Newton

The second substitute motion failed.

Permission to Survey - SS7462 Verch Locke Sewer Lift Station Area (Richland County) – Mr. Malinowski moved, seconded by Ms. Dickerson, to send this item to committee.

In Favor: Malinowski, Newton, Kennedy, Dickerson, Livingston and McBride

Present but Not Voting: Jackson, Myers and Manning

The vote in favor was unanimous.

20. **EXECUTIVE SESSION** – Mr. Smith stated the following items are eligible for Executive Session.

- a. SCE&G Utilities Agreement
- b. Richland County vs. Program Development Team
- c. CHA Consulting, Inc. vs. Dennis Corporation Daniel R. Dennis and Richland County
- d. SC Dept. of Revenue vs. Richland County

Mr. Malinowski moved, seconded by Ms. Dickerson, to go into Executive Session.

In Favor: Malinowski, Jackson, Newton, Myers, Kennedy, Dickerson, Livingston and McBride

Present but Not Voting: Manning

The vote in favor was unanimous to go into Executive Session.

Council went into Executive Session at approximately 9:04 PM and came out at approximately 10:17PM

Ms. Newton moved, seconded by Ms. Myers, to come out of Executive Session.

In Favor: Malinowski, Jackson, Newton, Myers, Kennedy, Livingston and Manning

**Regular Session
April 16, 2019**

Present but Not Voting: Manning and Dickerson

The vote in favor was unanimous.

- a. Richland County vs. Program Development Team – Ms. Newton moved, seconded by Mr. Malinowski, to direct Legal to proceed to best protect the County, in regards to the Penny Tax, as discussed in Executive Session.

In Favor: Malinowski, Newton, Myers, Kennedy, Walker and McBride

Opposed: Jackson, Manning, Dickerson and Livingston

The vote was in favor.

- b. CHA Consulting, Inc. vs. Dennis Corporation Daniel R. Dennis and Richland County – Mr. Malinowski moved, seconded by Ms. McBride, to direct the Legal Department to move forward with the settlement agreement, as discussed in Executive Session, and to authorize the Chair to execute the necessary documents.

In Favor: Malinowski, Newton, Myers, Kennedy, Livingston and McBride

Abstain: Jackson and Manning

Present but Not Voting: Dickerson

The vote in favor was unanimous with Mr. Jackson and Mr. Manning abstaining from the vote.

21. **MOTION PERIOD**

- a. I move that Richland County Council pass a resolution to “Ban the Box” and join more than 150 cities and counties and 33 states nationwide that have “Ban the Box” laws to remove questions about convictions from job applications; so that applicants could be judged first on their qualifications – This item was referred to the A&F Committee.

22. **ADJOURN** – The meeting adjourned at approximately 10:28 PM.