



## Richland County Council

REGULAR SESSION  
April 21, 2020 – 6:00 PM  
Via Zoom Meeting

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

**OTHERS PRESENT:** Michelle Onley, Kimberly Williams-Roberts, Ashiya Myers, Ashley Powell, Angela Weathersby, Leonardo Brown, Larry Smith, Clayton Voignier, Brad Farrar, Jeff Ruble, John Thompson, James Hayes, Michael Byrd, Michael Niermeier, Michael Maloney, Dale Welch, Kyle Holsclaw, Stacey Hamm and Jennifer Wladischkin

1. **CALL TO ORDER** – Mr. Livingston called the meeting to order at approximately 6:05 PM.
2. **INVOCATION** – The Invocation was led by the Honorable Joe Walker
3. **PLEDGE OF ALLEGIANCE** – The Pledge of Allegiance was led by the Honorable Joe Walker
4. **PRESENTATION**
  - a. **CAFR Presentation** – Ms. Hamm presented the County’s CAFR. Overall the General Fund went up 5%; expenses only increased 1%; the Fund Balance increased by 6%; the Unassigned Fund Balance is approximately where it was last year (25.8%), so it is within the County’s range of 20 – 30%. The revenue for Transportation was \$68M, with capital outlays of \$52M. Between the Transportation Sales Tax and the Capital Project BAN funds, the total was \$194M.

The County has received the engagement letter from Cherry Bekaert for next year’s audit. We had considered going out for an RFP, but at this late stage and the conditions surrounding the COVID-19 pandemic, staff is suggesting remaining with Cherry Bekaert for one more year.

5. **APPROVAL OF THE MINUTES**
  - a. **Regular Session: April 7, 2020** – Mr. Brown stated, in the minutes, you will notice that the Columbia Rowing Club was addressed. In conversations with the Columbia Rowing Club, there has been some need for clarity. Mr. Voignier has been communicating directly with them, and will relay the information to you before approving the minutes.

Mr. Voignier stated, the portion of the minutes regarding this item can be found on pp. 20 – 21 of the agenda packet. He followed up with the President of the Columbia Rowing Club, and it is their understanding, based on Mr. Malinowski’s friendly amendment to Mr. Walker’s motion that Council approved the five-year renewal of the operating agreement, as recommended, and approved by the Conservation Commission. Meaning that the term of the next renewal should be for five years, with automatic renewals at one-year intervals. It is staff’s understanding that the term of the renewal

should be for one-year renewal since the five-year renewal period has expired, with annual options to renew. Staff is seeking clarification regarding Council direction pertaining to that item.

Mr. Malinowski stated, on that particular item, it is like our solid waste haulers contracts. We give them a contract for five years, but if something takes place within any one of those years, we have the option to change it, or continue to renew it at the end of each year. It is a five-year contract, but it will be renewed on an annual basis.

Ms. D. Myers stated, it seems to her, it is opposite and would be a one-year contract with up to five successive renewals for a total term of up to five years. The other way you would have to affirmatively defeat the five-year period.

Mr. Smith responded, he believes, the solid waste hauler contracts were structured more like Mr. Malinowski described, a five-year contract, which is renewable annually for up to five years. If in fact, the County did not want to renew the contract after 1 year, 2 years, etc.; there would be an option to terminate the contract.

Mr. Voignier stated this is a five-year renewal. There is already an agreement in place. The Columbia Rowing Club is requesting a five-year renewal period.

Mr. Malinowski requested that a nay vote be recorded for him on the first item on p. 8 of the minutes.

Mr. Walker moved, seconded Mr. Jackson, to approve the minutes as corrected.

In Favor: McBride, Livingston, Terracio, Walker, Kennedy, Jackson, Myers and Newton

Opposed: Malinowski

The vote was in favor.

6. **ADOPTION OF THE AGENDA** – Mr. Livingston requested to add a Personnel Matter under the “Report of the Chair”.

Ms. D. Myers moved, seconded by Ms. McBride, to approve the minutes as amended.

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

Opposed: Manning

The vote was in favor.

7. **REPORT OF THE ATTORNEY FOR EXECUTIVE SESSION ITEMS**

a. Sale of Farrow Road Property

b. Personnel Matter

8. **CITIZENS' INPUT**

- a. For Items on the Agenda Not Requiring a Public Hearing – Ms. Catrina Qualls, Ms. Tameika Henderson and Ms. Linda Jackson spoke regarding Item #17(a): “Comprehensive Road Maintenance Program with Subdivision Abandoned Paved Road Relief”.

Mr. Alex Odgen, Ms. Laura Browder, Ms. Lisa Brownlee, Ms. Robynne Campbell, Wendy Bobadilla, Ms. Janet Spring, Ms. Gloria Eaddy, Ms. Verna Green, Ms. Evelyn Moore, Mr. Clarence Kanipe and Mr. Hayes Mizell spoke regarding Item #19(a): “I move to establish an Affordable Housing Trust Fund for Richland County as a benefit to the public. Housing is considered to be ‘affordable’ when 30% or less of one’s income is spent on housing and utilities. In Richland County, nearly half of renters pay more than a third of their income on rent and utilities.”

Mr. Malinowski stated it seems that Item 19(a) will have to be forwarded to a committee, and there could potentially be a public hearing on the matter.

Mr. Livingston inquired if the citizens’ input comments were separated as items on the agenda and those that are not on the agenda.

Ms. Roberts responded in affirmative.

9. **CITIZENS' INPUT**

- a. Must Pertain to Richland County Matters Not on the Agenda (Items for which a public hearing is required or a public hearing has been scheduled cannot be addressed at this time.) – No one submitted any comments for this item.

10. **REPORT OF THE COUNTY ADMINISTRATOR**

- a. Coronavirus Update – Mr. Brown stated the last reporting from DHEC indicated Richland County had 689 positive cases, with a total of 14 deaths. He expressed the County’s condolences to those that have lost loved ones to COVID-19. Also, residents are encouraged to visit [www.richlandcountysc.gov](http://www.richlandcountysc.gov) and click on the tab that says, “Many County Services Still Available Online and Via Email”, so that residents can see how to engage with Richland County to continue to conduct their business. There is staff working remotely and staff working staggered schedules, but we are still conducting County business. The COVID-19 Committee has been meeting to discuss relief funding for residents, non-profit organizations and businesses, which will be further discussed later on in this meeting. He also expects to attend the next Business Coronavirus Task Force meeting, as well as the COVID-19 Disparity Task Force meeting. Through our relationship with PRISMA and the City of Columbia, we have been able to acquire some non-contact thermometers, which have been issued to the First Responders in EMS and the Alvin S. Glenn Detention Center. Additionally, we have given protocols for screening received from PRISMA to assist them in their non-contact screening. Over and above our enhanced cleaning, we have deep cleaned any area where there has been any concern about exposure, or indirect exposure, to COVID-19. Whether that work is done by our internal team, or whether it is contracted out with additional cleaning services.

Mr. Byrd stated non-congregant sheltering for our purposes is the placement of an individual into a hotel/motel, dormitory or other non-congregant location, as directed by DHEC. DHEC is the lead in South Carolina for the administration of the South Carolina Emergency Health Powers Act. The non-congregant shelters is closely related to what is called Tier I sheltering, which is a place for individuals to isolate if they are waiting on test results, or to isolate and recover. Tier II facilities is a

step above that for low acuity patients with a larger clinical need for assistance. Tier III is hospitalization with treatment. All of the sheltering is meant to stop the spread of the disease. For the purposes of the sheltering, FEMA has not given us a definite consideration for reimbursement. When we look back at non-congregant sheltering, we are looking at primarily hotels and motels. Alternate care sites and temporary hospitals are not considered congregant sheltering and would have to fall into other categories. Examples of target populations for non-congregant are those that would test positive for COVID-19, but do not require hospitalization, but need isolation, and those that have been exposed to COVID-19, but do not require hospitalization. It is, basically, having a place and the ability to isolate those individuals that have tested positive, or are under investigation for being positive. We have been working closely with several organizations, and individuals, such as the United Way, PRISMA Health, DHEC and State Emergency Management to try to work on the solutions for the non-congregant sheltering. This is not just a Richland County issue, but a statewide issue. As you know PRISMA goes into Greenville, and they have a partnership to use a rescue mission there. The Upstate currently only has one patient, and we have had several. Because DHEC does not notify us of the patient data, we believe we know about all of them, but we are not sure if we have been made aware of all of them. DHEC has the responsibility to identify those individuals and direct those individuals to sheltering. Currently, there is a limited interim solution in the Midlands. When you talk about sheltering, whether it is Tier I or Tier II, there are other needs that have to be met, such as case management, food, transportation, mental health, etc. As we have been working through this problem, we have contacted several hotels and motels to assist, and we find they are increasingly unavailable for this mission, so it is presenting some problems for us to solve it in a long-term manner. However, since the need is very low, the group is confident the way we are working, we can continue to use hotels/motels to assist those individuals in need. DHEC has offered their assistance in providing those hotels/motels. In addition, DHEC has provided an agreement to all counties, which comes with some funding; however, most South Carolina counties have evaluated the agreement, and have opted not to participate, which is the current position for Richland County. We feel like, as we work through this, we have a couple of alternatives, which we are pursuing, to standup non-congregant shelters, and we will continue on that path, as we move forward. If you look at how that works with an individual, the individual shows up at a shelter with symptoms. If there is medical staff available, they will look a medical assessment, and either get that person in a virtual exam or move them toward the hospital for further examination. If they are positive, DHEC is notified. If they are negative, they are released. Those that are positive that do not have symptoms would move into a non-congregant shelter. Those that do have symptoms, they may be admitted to the hospital for further treatment and evaluation. Once the 14 days is up, they are re-tested and released. If they are being held, pending results, when the results come in they either go back to the hospital (positive result) or are released (negative result).

Ms. Terracio inquired about who is responsible for transportation.

Mr. Byrd responded DHEC usually arranges transportation. Several of the individuals who have gone through this process were also associated with the VA, and the VA arranged transportation. The overall transportation piece we are still working on, but if we have an individual that needs to be transported, EMS will transport that person, until we have some other asset in place.

Ms. McBride stated it is good to know we have some programs in place, but many more are needed. She inquired, if a citizen, who does not have a doctor, needs to be tested, where would that citizen go, and what would they do?

Mr. Byrd stated the recommendation would be to enter the virtual portal with PRISMA. They can do an assessment and direct the citizen further.

Ms. McBride stated what if the citizen does not have access to a computer. These are questions that have been presented to her.

Mr. Byrd stated, currently, we do not have any locations that you can just drive to and test. You have to be referred into testing. He thinks there has been a lot of discussion at the State and National level about establishing drive-thru testing where anyone with, or without, symptoms can go, but right now the guidance is that you have to go through a medical authority. You have to have symptoms before they are going to recommend you to test. Therefore, citizens would need to go to emergency room or a freestanding medical clinic.

Ms. McBride stated District 3 is partnering with Bishop Freeman, the pastor of Meeting Place of Columbia, as well as Mr. Byrd and neighborhood associations, to distribute 6,000 masks, provided by the church, to the most vulnerable communities. Based on the DHEC data, there are certain zip codes that have a disproportionate prevalence of the COVID-19. Many of those communities are predominately African-American. She is also looking at some of the other Council districts that may want to participate. Hopefully, with the Governor opening up some of the stores again, the County will begin to look at ways to encourage social distancing because South Carolina has not reached its peak, and she is concerned about the citizens getting back out to the stores without adequate PPEs.

Ms. D. Myers noted that PRISMA Health – Richland is a Level I trauma center, and they are required, pursuant to their Richland County contract, to provide care to anybody that walks in the emergency room door. If we have citizens in need of testing, they should present at PRISMA, if they have no other option.

11. **REPORT OF THE CLERK OF COUNCIL** – No report was given.

12. **REPORT OF THE CHAIR**

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

13. **THIRD READING ITEMS**

a. **20-002MA, Tommy Wood, RS-MD to GC (1.46 Acres), 7220 Frost Avenue, TMS # R09402-02-01(p)** – Ms. Terracio moved, seconded by Ms. Newton, to approve this item.

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

The vote in favor was unanimous.

14. **SECOND READING ITEM**

a. **An Ordinance Amending the Richland County Code of Ordinances; Chapter 23, Taxation; Article VI, Local Hospitality Tax, Section 23-67, "Payment of Local Hospitality Tax," by the addition of language to subsection (b) thereof so as to extend the deadline for remitting outstanding hospitality taxes until June 20, 2020** – Ms. Terracio moved, seconded by Ms. McBride, to approve this item.

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

Oppose: Manning

Abstain: Walker

The vote was in favor with Mr. Walker abstaining from the vote for reasons of direct financial involvement.

- b. An Ordinance Amending the Richland County Code of Ordinances, Chapter 6, Buildings and Building Regulations; so as to codify the 2018 Editions of the International Residential Code, the International Building Code, the International Fire Code, the International Plumbing Code, the International Fuel Gas Code, the International Mechanical Code, the International Existing Building Code, the International Swimming Pool and Spa Code, the International Property Maintenance Code and the 2009 South Carolina Energy Conservation Code, and the 2017 National Electric Code (NFPA 70) – Ms. Terracio moved, seconded by Mr. Manning, to approve this item.

Mr. Malinowski stated, from reading the briefing documentation, this was approved and adopted by the Building Code Council in August 2018, with an implementation date of January 2020. There was almost a year and half to get prepared to implement this, and here we are four months later implementing it. In the future, we need to have someone on top of these things, so we are not behind the curve approving things after the fact.

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

The vote in favor was unanimous.

15. **REPORT OF ECONOMIC DEVELOPMENT COMMITTEE**

- a. A Resolution Authorizing the Administration by the County of certain grant funds from the South Carolina Department of Commerce – Mr. Jackson stated the committee recommended approval of this item.

Mr. Malinowski noted, on p. 47 of the agenda packet, under Section II, Ratification of Prior Acts, it states, “Any action of any Authorized Official taken on behalf of or in the name of the County in connection with the application for or receipt or administration of the Funds prior to the date of this Resolution are confirmed, ratified and approved.” He inquired if any actions taken prior to this being taken up by Council.

Mr. Ruble responded that he is not aware of any actions taking place.

Ms. Terracio requested, in future briefing documents, it be notated how many of the jobs are minimum wage, the highest/lowest salary, etc.

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

The vote in favor was unanimous.

- b. A Resolution Authorizing the extension of an Option Agreement between Richland County, South Carolina and Garners Ferry Development Company and other matters related thereto – Mr. Jackson stated the committee recommended approval of this item.

Mr. Malinowski requested, prior to the approval of the minutes, to be provided the date this agreement was originally executed, and the vote of Council regarding the item.

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

Opposed: Malinowski

The vote in favor was unanimous.

- c. Consenting to the partial assignment and assumption of a fee in-lieu of tax and incentive agreement from PPT Real Estate Enterprises, L.P. to Stag Industrial Holdings, LLC; and other related matters – Mr. Jackson stated the committee recommended approval of this item.

In Favor: Dickerson, McBride, Livingston, Terracio, Walker, Kennedy, Manning and Jackson

Opposed: Malinowski and Myers

The vote was in favor.

- d. Authorizing, approving, ratifying and consenting to the partial assignment and assumption of an infrastructure credit and incentive agreement from Pure Power Technologies, Inc. to PPT Real Estate Enterprises, L.P.; authorizing, approving, ratifying and consenting to the partial assignment and assumption of an infrastructure credit and incentive agreement from PPT Real Estate Enterprises, L.P. to Stag Industrial Holdings, LLC; and other related matters – Mr. Jackson stated the committee recommended approval of this item.

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

Opposed: Malinowski

The vote in favor was unanimous.

16. **REPORT OF THE CORONAVIRUS AD HOC COMMITTEE**

- a. COVID-19 Relief Grant Program(s) – Ms. A. Myers stated staff is recommending approval of the grant program. In the committee meeting there were some changes requested to the small business grant guidelines and applications. Those changes were made, per the committee’s request and provided to Council via email for review. On the grant guidelines, one of the recommendations was to remove the requirement of a recovery plan, and include that the business demonstrates plans to sustain operations. You can find that located on p. 1 of the grant guidelines. The other changes were made to the grant application for the small business relief grant. Page 1 highlights the demonstration of plans to sustain operations, and, on p. 5, there was the inclusion of the categories of employees starting with an independent person, 1 – 5 employees, 6 – 15 employees and 16 – 50 employees, as recommended by the committee. On p. 6, there is an area where we requested the business to provide a description of how the grant funding will be used to sustain business operations, particularly for those businesses who have no employees. Staff is requesting approval to implement the program to expedite the aid to the community. We recognize that some amendments may be necessary, as has been communicated by the City of Columbia and United Way.

Ms. D. Myers suggested that staff track the percentages of dollars we are reinvesting in Richland County, to include incorporated, and unincorporated, so we can look at the progress of those companies at a later date.

Mr. Malinowski stated, on p. 2, it says the ineligible applicants are hotels and motels. Yet, in the actual grant verbiage it says accommodations would receive grants. He stated he was confused as to why in one place we are saying accommodations is a priority to receive grants, and in the other we make them ineligible. He also requested, during the committee meeting, that the eligible/ineligible list not be all inclusive. If they are inclusive, we are not counting everybody in there that needs to be eligible, and some that do not need to be eligible. He also inquired, at the committee meeting, as to why franchises were excluded, when many franchises are individually-owned small businesses.

Ms. A. Myers responded, on p. 2 of the updated grant guidelines, you will notice directly above ineligible applicants, there is a line that says the list is not all inclusive. In regard to the franchises, a franchise may be owned, and operated by an individual, but they are supported by a corporate entity or chain franchise; therefore, they qualify for the CARES Act. It is our understanding, Council wants this grant to help those that would fall through the gap. It would be unfair for franchises to compete against the “mom and pop” shops.

Mr. Malinowski inquired as to why liquor stores are not included.

Ms. A. Myers responded that is to maintain consistency with our SLBE ordinance, which liquor stores are not a part of.

Ms. McBride stated she wants to make sure the appropriate data regarding the demographics is maintained, so we can see the distribution of funds, and how it is impacting the communities.

Mr. Livingston stated he would like to see on the next committee agenda an update on the status of where we are with it.

Mr. Jackson inquired as to the launch date for the grant applications.

Ms. A. Myers responded that staff is proposing April 22<sup>nd</sup>.

Mr. Jackson stated, for clarification, the mechanism for getting the word out will not happen until tomorrow. He stated those that are ready, have access to the mechanisms and are checking on a daily basis will find out. He inquired if there is a more equitable way to ensure that everyone has a fair shot at getting the notice about it, and, then time between the notice and when they actually can apply. He inquired if the committee discussed this.

Ms. A. Myers responded the committee did not provide a date desired. Staff was told they wished to move forward expeditiously.

Mr. Jackson stated he wants it to be done expeditiously, and fairly. His concern is, if it starts tomorrow, and we are voting on it tonight, there is some equity, in terms of everyone having a fair shot by everyone hearing and receiving public notice that would be generally expected. He inquired what the methods for communicating this to the public will be.

Mr. Brown responded that they talked about utilizing a combination of methods. One method, separate, and apart from our website, would be through the Office of Small Business and the Economic Development’s list of contacts. We also talked about utilizing places where citizens are visiting (i.e. grocery stores, convenience stores, etc.). In addition, the potential to utilize billboards was discussed.

Mr. Jackson stated he is certainly not trying to delay the process, but he wants to ensure that individuals are given a fair shot, which is why he mentioned during the committee meeting a process that would allow for a uniform start and end date.

Ms. Dickerson stated she agrees with Mr. Jackson. She is concerned about having a time when everyone can apply, and everyone has the same amount of time to make sure their application is submitted. If they are in a "pool" everyone will have an opportunity. She is afraid someone is not going to be able to take advantage of this opportunity. For example, a lot of businesses are not getting Federal funds because they did not take advantage, or we not privy to the information, in timely manner, and now the funds have dried up. She believes we need to ensure that the playing field is level, and everybody has an opportunity to apply. She also agrees we need to have a mechanism where we can track the funds.

Mr. Manning stated, for clarification, the notification will be going out tomorrow, if this is approved tonight.

Mr. Brown responded, based on what he has heard tonight, we need to do a targeted delay, so that we can ensure the information is not more advantageously received by those who are more technologically affluent versus those who are not. He suggested we open up the application process on Wednesday, April 29<sup>th</sup> or Friday, May 1<sup>st</sup>. He wants to make sure we are not harming anyone in the process.

Ms. Dickerson stated we have been in a delay for such a long time, and we need to expedite this as soon as possible.

Ms. D. Myers moved to amend the committee's recommendation to have a launch date of Monday, April 27<sup>th</sup>, and to have a media saturation campaign every day until then.

Mr. Manning stated the draft document that was supplied to Council said the application date was going to open on April 20<sup>th</sup>. Now, we are talking about that date changing. In addition, when we were discussing the groups the notice was going to be sent to, he did not hear the grants office mentioned, which has an extensive email list. Although not all of those people may qualify, they know people, and work in, or with, organizations that it applies.

Mr. Malinowski stated, in the pandemic relief grant, it says we are going to focus in the following areas: retail trade, accommodations and food service. In the grant guidelines, it says hotels/motels are ineligible, which seems like a conflict.

Ms. A. Myers responded we are targeting the restaurants, bars, and people who may not be generating any income at this time. She stated we will be happy to modify the language to remove the word "accommodations", if it is confusing.

Mr. Malinowski stated it is confusing to him because the word "accommodations" is hotels/motels.

Ms. A. Myers responded they will make the requested language modification.

Ms. Newton stated she wanted to support her colleagues concern, and that we do everything we can to get the word out. Also, she noted we have partners (i.e. the library) that have already been putting out the word about grant opportunities, so people have already been going to them for assistance, and we can rely on them. Additionally, she knows the library has been doing some one-on-one small business coaching about eligibility. While we have our Richland County networks, we

also have our partner networks we can take advantage of. She wanted to confirm that after we talk about the small business program, we are also going to discuss the other programs we talked about at the committee meeting, specifically the amount.

Mr. Livingston responded we will take that up at the conclusion of this item.

Ms. McBride stressed the importance of what Mr. Jackson is saying. There is a number of citizens and small businesses that have no idea that the County is doing anything. She has had people to question her about this matter. She has spoken to the Administrator about providing public information (i.e. letter, postcard) to all of the County residents educating them on what the County is doing. She stated we could provide the grant information now, and have the start date for submission of applications at a later date. Additionally, it is great to communicate through the internet, but for a large percentage of people that will not work. She stated we watch TV. We need some type of public service announcement stating that these funds will be available, and telling the residents where they can go. We do not use the television enough, and that is where you get the people listening to what you say. The radio, as well.

Ms. D. Myers made a friendly amendment to begin the application process on Monday, April 27<sup>th</sup>, seconded by Ms. Newton.

Ms. McBride inquired about how disbursements is the County planning to do.

Mr. Brown stated we are projecting to do up to 5 disbursements, assuming the funds do not run out before we are able to do all 5 disbursements.

Ms. D. Myers stated, to be clear, we have asked for aggressive and robust public information, and we have been a bit disappointed. She is requesting Mr. Brown to be sure that it is a robust campaign to let people know that this funding is available.

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

Opposed: Malinowski,

Abstain: Walker

The vote was in favor with Mr. Walker abstaining from the vote because he believes some of the businesses he is an investor in may have a financial impact.

Mr. Brown stated the relief grant programs were focused on the areas the committee identified (i.e. small businesses and non-profits organizations). The non-profit organizations will offer direct assistance to residents through their services.

Ms. D. Myers stated, for clarification, in the motion just approved, it is staff's understanding that we approved the grant funding for small businesses, as well as grant funding for community-based/non-profit organizations to provide immediate assistance to the community.

Mr. Brown responded in the affirmative.

Ms. D. Myers inquired if we need to go back and make sure we have identified the other part of this for the listening public and Council members not on the committee. She noted the community-based grant program is also competitive.

Ms. Newton stated, for clarification, the amount for the community-based grant program is \$250,000.

Ms. Powell responded that is correct.

Ms. Newton moved, seconded by Ms. McBride, to reconsider this item.

In Favor: Malinowski

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

Abstain: Walker

The motion for reconsideration failed.

- b. COVID-19 Recovery Consultant – Mr. Brown stated during the committee meeting we presented a recovery consultant, and staff’s recommendation was to engage TetraTech to assist the County.

Ms. Powell stated the committee’s recommendation was to engage TetraTech through December 31<sup>st</sup>.

Ms. McBride noted the response and recovery strategy does not include a public health strategy. Therefore, we are still without a public strategy as to how Richland County will move to address COVID-19. We have not addressed testing, social service needs, etc. She is concerned that this particular consultant does not have the expertise, or it is not included in the contract, and if we are going to look at those efforts with another contractor.

Mr. Livingston suggested including that item on the next Coronavirus Ad Hoc Committee agenda.

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

Opposed: Manning

The vote was in favor.

Ms. Dickerson moved, seconded by Ms. D. Myers, to reconsider this item.

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

The motion for reconsideration failed.

- c. Updated CDBG Allocation – Ms. Powell stated the recommendation of the committee was to allocate \$2.8M of CDBG for COVID response, on behalf of Richland County. She stated the funding is a combination of uncommitted balances from 2019/2020 CDBG funds, as well as the CDBG-CV funds of approximately \$1M from the Cares Act.

Ms. Dickerson inquired if any of these funds can be utilized to assist with testing.

Ms. Powell responded under the allowable uses for COVID-19 response there is things like constructing a facility for testing, diagnostic and treatment. In order to use these funds, the staff would have to compile an update to the Action Plan for Council's approval.

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

The vote in favor was unanimous.

Ms. Dickerson moved, seconded by Ms. D. Myers, to reconsider this item.

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

The motion for reconsideration failed.

## 17. OTHER ITEMS

- a. Comprehensive Road Maintenance Program with Subdivision Abandoned Paved Road Relief – Mr. Maloney stated this is the effort to get started on a plan that will take approximately 8 months to complete. In the agenda briefing document, there is a schedule. One of the longest lead time issues, in the schedule, is obtaining County right-of-way on the roads. Step one would be to utilize County staff for survey documentation, as well as the County's Legal Department and Register of Deeds to begin the land transfer of the right-of-ways. Once that is done, we would begin to do routine maintenance where we are hearing about large potholes, and other issues on those roads. We would be using County staff for that as well. Once the entire plan is complete, and we have identified all the roads in the County that need various levels of maintenance, we would develop a 5-year capital plan that would include these roads, as well as all County roads that need improvement. The roads will be prioritized on the basis of traffic, Council districts, distribution and wear and tear. We would not be expending any funds, other than the routine maintenance on the abandoned roads, until we have the entire capital plan completed.

Ms. D. Myers stated she believes this has come before us twice before, and she thought this was supposed to be a part of a more comprehensive plan, as a part of the larger roads plan across the County. It was her understanding that we would not be just dealing with roads in subdivisions, but that we would be dealing with a comprehensive plan for how to get Richland County's roads paved, and how to allocate funds across the needs of the County. She understands this is not asking for money today. It is asking for the right for planning to go forward, but she is concerned that means we will be planning these roads in a vacuum from the rest of the roads. She stated this was supposed to be a part of a workshop.

Dr. Thompson responded this is supposed to be a part of work session. The work session was being scheduled, but because of COVID-19, and our focus on that, we have not had an opportunity to have that work session. Director Maloney is willing and able to facilitate a discussion, but because this item was before you previously we did not want to stall this item any longer.

Ms. D. Myers moved, seconded by Ms. Dickerson, to defer this item to the larger plan.

In Favor: Dickerson, McBride, Myers and Newton

Opposed: Malinowski, Livingston, Terracio, Walker, Kennedy, Manning and Jackson

The motion for deferral failed.

Ms. Myers inquired as to how this got back on the agenda, and who took it out of the larger plan.

Mr. Livingston inquired if we officially had a larger plan.

Mr. Maloney stated they will be starting on, with your approval, the hiring of the consultant, and creating the prioritization methodology. Once that is completed, they will start rating all of the County's roads. It would be great to do a work session, but it would be best if we could do that face-to-face with a PowerPoint.

Ms. D. Myers stated she appreciates the urgency of these roads, and she is concerned about them. Many of them are in her district. She is concerned that we are taking a group of roads, and giving them a higher priority than roads that were in line well before them. The reason we were looking for a comprehensive roads plan was to avoid leapfrogging people that have been standing in line for years, some decades, and putting these roads ahead. While she wants this roads taken over, because they need to be repaired, she wants it to be a part of a fair plan, and she does not think this achieves that.

Ms. Newton stated, her understanding of what Mr. Maloney is saying is, this item before us is to begin the process of creating the comprehensive road maintenance plan.

Mr. Maloney responded that is correct. The comprehensive plan, itself, is throughout the rest of the year. Most of that time is acquiring the right-of-ways. We cannot do maintenance on those roads until acquired. We are currently do the whole County's potholes, so it is not taking away. We are not getting into the major maintenance (i.e. overlay). Those are the things that will be identified in the comprehensive and capital plan that comes out in about 9 months.

Ms. Newton stated it seems like are getting the roads first, and then doing the plan second. Whereas, she thought we wanted to plan first. How are we are going to handle maintenance for all of our roads? What needs to be done? What is the process we are going to use to do it? After that, we would figure out how these roads, which are not currently County roads, fit into that plan.

Mr. Maloney stated the routine maintenance that we would be doing are safety elements that we are hearing about (i.e. large potholes). What you previously saw was a large capital plan bringing these up to new standards, at a larger dollar value. We are not going to be doing that above any other County roads, which is the purpose of getting to the capital plan at the end of this. None of that is planned to be done on these roads. We have to have a consultant go on these roads and do a road rating, so they can provide a condition report, road by road, which will tell us where each pavement is in its life. Then, we can start to schedule, in our capital plan, where those improvements are needed, and what year. Waiting 9 months, until the comprehensive plan is completed, to begin acquiring the properties puts that out another year, and leaving these potholes and problems to grow into larger problems for the County.

Ms. Newton stated, although we are talking about 93 roads, she can find 93 other roads that have potholes and safety concerns, so she wants to make sure we are taking care of those other concerns. Secondly, she understand why we want to go out and inspect these roads and figure out what it will cost to bring them up to County standards. As we are the people that write the scope for the solicitation, she does not see where anything prohibits us from walking on those roads, and understanding the scope of those roads, whether or not we have the right-of-way.

Mr. Malinowski stated, when former Public Works Director Ozbek was here, we had work sessions. We have been kicking the can down the road for well over a year, and as Mr. Ozbek said, we are currently doing routine maintenance on the roads, when reports are called in. We are not excluding the current roads. Also, when he made the motion to take these roads over, he said, they would be placed in order of need with the current roads that are currently County roads.

Ms. McBride inquired if these are the roads that were owned by the developers and subsequently abandoned, and are currently not being tended to.

Mr. Maloney responded in the affirmative.

Ms. McBride stated these are the same roads that when they were prioritized was not a system. It was people calling in requesting maintenance. The people that made the noise got a response. All these other roads were out there, but the citizens did not make the noise, so they did not get on the priority list. We decided it was not fair that there are so many other roads out there, so it was decided that we would defer the item until we developed a comprehensive, fair process to ensure that all of the roads were addressed. Now, we are coming back, and it appears the system was circumvented to get the item back on the agenda. She is concerned that with so many priorities out there, and all of those other roads that need repairing, we are just taking the ones that people knew how to call in to request repairs.

Ms. A. Myers stated, for clarification, at the September 17, 2019, Councilmember Malinowski made a motion to have staff bring back the preliminary recommendations for prioritizing private roads to Council within 60 days, which would have been the first meeting in December. Subsequently, the item was deferred until February, but was not ready for Council consideration, at that time. Therefore, it was pulled from the February 18<sup>th</sup> agenda, and this is staff's first time bringing the item back for consideration.

Ms. Dickerson stated she thinks it is unfair for a few roads, in communities, which were done by developers, and left undone, and we have people and roads that...She believes this item is out of order. She believes we need to have workshop so we can prioritize the roads, and not just do some because people want it done in certain neighborhoods.

Mr. Livingston inquired if the 93 roads, we are talking about, are based on citizens calling in and expressing a concern or based on a staff assessment.

Mr. Maloney responded it is based on a staff assessment. These are subdivisions that should be County roads that had problems 8 – 10 years ago, or as they were being developed. The development companies went out of business, and the right-of-way was not transferred to the County.

Ms. McBride stated that was not her understanding from the prior Director. She stated we wanted to know the process, in terms of how these roads were identified, and they were identified based on citizens calling in.

Mr. Livingston stated the recommended motion says, “I move that Richland County Council direct County Staff to implement a plan, as briefed herein, by which 93 subdivision paved roads and road segments be brought into the County Road Maintenance System...” He inquired if we are talking about more than bringing them into the system now.

Mr. Maloney stated, as they come into the system, if there are safety issues we would address them like any other County road. We are not talking about large capital expenses, overlays or new pavement. The roads are not going to come in all at once. It will take 8 – 10 months to bring the vast majority into the system, and it may be challenging to find some of the landowners.

Mr. Livingston inquired how this will impact current potholes in the County.

Mr. Maloney stated they would go into the schedule with the current potholes. We are addressing the potholes right now, but we are in the COVID-19 pattern with only half of staff. We currently have 600 miles of paved roads, and this will add approximately 6 miles; therefore, we will be able to take care of these.

Mr. Livingston inquired if we are currently doing anything in subdivisions.

Mr. Maloney responded not that he is aware of.

Ms. Dickerson inquired if this item went through the Transportation Ad Hoc Committee.

Mr. Jackson responded that it did not come through the Transportation Ad Hoc Committee.

Ms. Dickerson stated problems start to arise when things do not go through committee and get vetted, so we can have a better understanding. That is why Council was looking for a workshop. She stated she has roads in her district that is terrible, which are County roads, and we are talking about roads that are not County roads. She cannot support this until it is vetted and goes through a comprehensive plan.

Mr. Malinowski inquired if any current roads in the system be ignored if these roads are taken in.

Mr. Maloney responded they will not.

Mr. Malinowski stated, his recollection is, this item went before the Development & Services Committee a couple years ago. He requested the Clerk's Office to research this and provide the results of that meeting. Also, one of our citizen input respondents stated there are developers that are still in business that these developments were built by. He would like to have someone on staff to get in touch with that individual and find out if this is a true statement, so we can hold those developers responsible.

Ms. Dickerson inquired if some of these communities are gated communities.

Mr. Maloney responded that is possible.

Ms. Powell stated Mr. Malinowski is correct. The genesis of this item was, there was a work session presented by Tracy Hegler and Ismail Ozbek in October 2018. Following that work session, Ms. Powell presented this item at the 2019 Council Retreat. Following the Council Retreat, Administration brought it back and reported out that action was necessary. The matter was routed through the Administration and Finance Committee to full Council.

Ms. Newton stated, from her perspective, part of what Mr. Maloney is hearing is, on the one hand it is being said that no roads are going to jump ahead of the line. The problem is the way Richland County has determined its line, up until now, has been flawed, which is why she has constituents and roads that are need of repair. For example, she may be riding on roads in her district where the

pothole may swallow her alive, and there are other people that are getting their roads repaired because they have made the most noise. There has not been a process that has been clearly communicated that appears consistent and fair. She has no problem with the roads being in the County's inventory, but the problem is she does not know that anyone can say they will not jump ahead of other roads that need to be done because there is not a process that determines how we do that, which is why she supports a comprehensive plan that determines how we make those determinations.

Ms. D. Myers stated it was noted how many miles of existing paved roads these would be added to, but there are people are in the County that live on County-maintained unpaved roads, as well, who literally cannot get out of their homes when it rains. She is shocked that we are now considering the addition of roads to a list for routine maintenance and saying it will not impede the process of getting maintenance done to any other roads, when we are already overloaded. She inquired how we can legitimately say that is a fact, when we are operating on a system where the loudest kid in the car, who screams most often, is the one who gets something done. There is zero process by which we are maintaining, repairing or allowing human service access to (i.e. public safety access), for some roads across the County. She is shocked that we are looking at this again, when this has come before us several times. Each time we have had this same discussion. The fact that it is back, and we are again saying this will lead the way to a process, rather than us having a process into which we fold this part. She knows the new Public Works Director sees this is something that needs to be done, but the citizens that have been standing in line for decades will find it shocking that we now have the capacity to take on more roads, when the ones we have, have not been put into any kind of reasonable order and maintained fairly. She is disappointed that we are here again with this. Although she thinks the roads need to be taken in, she does not think they need to be taken in this way.

Ms. McBride stated we want to work with these roads, but we want a process that is fair. The current method that we are using is not.

Dr. Thompson stated he will work with Mr. Maloney to schedule the work session, and then move forward with bringing a comprehensive plan to Council.

Mr. Livingston stated, what makes this a tough issue is, he has to keep in mind those individuals in subdivisions pay County property tax and the road maintenance fee; therefore, they deserve to be taken care of too. He is not suggesting they need to jump ahead of anyone, but he sees no reason not to do what is being requested, which is simply to bring those subdivisions into the County system. It does not mean they have to jump ahead of someone, but they have a right to be in the system because they have paid property taxes and the road maintenance fee.

Ms. D. Myers stated she represents constituents who live in subdivisions, as well. It is not an issue as to whether or not people live in subdivisions, and their roads are a part of the system. It is a question of whether we are taking the road maintenance fee that we have collected, and giving them the benefit of what they have paid for, ahead of adding another load to the list.

Ms. McBride stated the comprehensive plan would help ensure the fairness, and that is why we recommended the plan.

Ms. Dickerson stated she wants to make sure, when she votes that she gives everyone a fair shot at this. If we do something that is not fair, we have to pay the price. The constituents will be calling us wanting to know how we take in these roads and overlook those that have been waiting for years to have their roads repaired.

Mr. Livingston requested Dr. Thompson restate his suggestion.

Dr. Thompson suggested proceeding with the work session, so that Mr. Maloney can facilitate the discussion with Council. From the work session, staff would develop the comprehensive plan. A part of the comprehensive plan will take months to develop, as Mr. Maloney will have to come back to Council to hire a consultant to assess all roads in the County's system.

Ms. Dickerson stated there has been some work already done, but we may need a consultant to finalize the plan. The roads are there and we need to address them, and put them in order.

Dr. Thompson stated he does not think the process will be any different than what is done with the Transportation Department. There is a comprehensive process, in terms of giving you a quantitative score, based on the condition of those roads. Public Works will present a ranked order of the roads, based on the quantitative score.

Mr. Malinowski stated he is going to trust that Mr. Maloney is going to be doing it fairly, until some ranking order comes on. He thinks some of the comments, while he is not out there to see all of these roads, are sensationalized. When he sees a pothole, or gets a reporting of one, he reports it and it gets fixed.

Mr. Livingston stated what he is most concerned about is bringing the roads into the system. He inquired if that would be important to do, in order to draft the comprehensive plan. You want to be able to do the right-of-way, etc.

Mr. Maloney stated, his concern is, the comprehensive plan is going to take at least 9 months to develop, with all of the systems of identifying the roads and the problems, to get to a 5-year plan. If we have not acquired these right-of-ways, it be an additional 12 – 18 months. The roads will not be ahead of the game, they will not even fit into the matrix because we will not have the right-of-way.

Mr. Malinowski moved, seconded by Mr. Manning, to approve staff's recommendation that Richland County Council direct County Staff to implement a plan, as briefed herein, by which 93 subdivision paved roads and road segments be brought into the County Road Maintenance System through the voluntary donation of necessary Right-of-Way for maintenance, per the Comprehensive Road Maintenance Plan. Any future request to obtain any of these roads by purchase or the exercise of eminent domain must be separately considered by County Council."

Ms. McBride stated, for clarification, bringing the roads into the system does not state that we have to anything with them. We are just trying to bring them into the system.

Mr. Malinowski responded in the affirmative.

Ms. McBride stated there would not be any requirements that we have to do work on these roads, at this time.

Mr. Malinowski responded in the affirmative. We will have the work session and the comprehensive plan coming forward.

Ms. D. Myers stated that is not correct because the Director just told us, once you bring them in, if there is maintenance needed, they would do the maintenance.

Ms. D. Myers made a substitute motion, seconded by Ms. Dickerson, to hold the work session in the next two weeks, develop the comprehensive plan, and then bring the roads into the system, as a part of the plan.

Ms. Newton stated, for clarification, it does not appear Mr. Maloney wants to wait a year to bring these roads into the system, after we have developed the comprehensive plan. Therefore, from Ms. Myers' perspective, would this work session provide clarity that we would need to bring these roads into the system, even advance of hiring the consultant?

Ms. D. Myers stated her motion is not contingent on the consultant. She was following Dr. Thompson's guidance that they are ready to go with the comprehensive plan, and all they need is Council to listen to the presentation.

In Favor: Dickerson, McBride, Terracio, Myers and Newton

Opposed: Malinowski, Livingston, Walker, Kennedy, Manning and Jackson

The substitute motion failed.

Ms. McBride requested confirmation from staff that Mr. Malinowski's motion would bring the roads into the County, and nothing else would be done, at this time.

Mr. Brown responded in the affirmative.

Ms. D. Myers stated, for clarification, if we bring the roads into the system, all we are only bringing them in on paper. If there is something wrong, staff will not come back for funding to fix it.

Dr. Thompson responded, at that point, we have to maintain it.

Ms. D. Myers stated that is what Ms. McBride just asked, and she was told nothing was going to be done, which is not correct. We are bringing them in, and we will have to maintain them. You cannot have a road, and say, we just brought it in to assuage your concern of getting it in the system. We are bringing it in to spend money and fix it.

Ms. McBride stated we have other roads that need to be maintained. They are not saying they are going to maintain these roads over the other roads.

Dr. Thompson stated that is the purpose of having the comprehensive plan. The only way to have the comprehensive plan is to have the work session, receive input from Council, and hire a consultant to do the assessment of the roads to develop the plan.

Ms. McBride stated, for clarification, we bring the roads in. Then, we do the plan and the process for determining which roads will be repaired.

Dr. Thompson responded in the affirmative.

Ms. D. Myers stated, to be clear, you are not saying you are going to bring a road in and do nothing. You are going to bring a road in, and if it needs something you are going to do it, if it fits into the category of routine maintenance. Comprehensive plan, or not, it is going to get repaired.

Dr. Thompson responded in the affirmative.

Ms. McBride inquired if it is going to be done over other priorities, which are already out there.

Dr. Thompson responded in the negative.

Ms. D. Myers stated the problem is we do not have priorities because we do not have a comprehensive plan.

Ms. Terracio requested confirmation from staff that we can conduct the work session via Zoom, if necessary.

Ms. Powell responded in the affirmative.

In Favor: Malinowski, Livingston, Terracio, Walker, Manning and Jackson

Opposed: Dickerson, McBride, Myers and Newton

The vote was in favor.

Mr. Malinowski moved, seconded by Mr. Walker, to reconsider this item.

In Favor: Dickerson, McBride, Myers and Newton

Opposed: Malinowski, Livingston, Terracio, Walker, Kennedy, Manning and Jackson

The motion for reconsideration failed.

- b. North Main CEI Services Contract Approval – Mr. Manning moved, seconded by Mr. Livingston, to approve staff's recommendation.

Mr. Malinowski stated there have been some questions raised about possible impropriety involving this particular company in other areas of work; therefore, he cannot support giving them additional work from the County.

Mr. Walker stated either staff, or legal counsel, had an opinion, as to this matter. He requested someone from Administration or Legal to speak to the matter, prior to the vote.

Mr. Brown stated, during a previous Council meeting, there was a discussion related to the award of this contract. Specifically, there was discussion that Council did not want to award contracts to businesses that are involved in a legal dispute with Richland County. Looking at those previous minutes, while Council discussed that, he did not see where Council actually voted to take that action. If Council decides to take that action, staff's recommendation would be to award the contract to the next highest ranked vendor, since Council would have made a decision not to award contracts to businesses that are involved in a legal dispute, with Richland County.

Mr. Walker made a substitute motion, seconded by Mr. Malinowski, to follow the guidance provided by the County Administrator.

Mr. Livingston inquired if that was guidance from the County Administrator.

Mr. Walker clarified his motion that, based on the information provided by the County Administrator, to remove Brownstone, as a qualified bidder, from the County's bid list, and to award the contract to next appropriately ranked vendor.

Mr. Jackson stated, if that becomes the will of Council, he will support it. However, he said at a previous meeting, and he will say it again tonight, that what concerns him more than the motion, on the surface, because he agrees with that, is the way in which the organization that is now being excluded got associated with the major organization, which is technically the organization that is in litigation, by default. He would like to make sure that Mr. Smith makes him understand the association is an indirect party to the lawsuit, and not a direct party. The reason that is important, is because, if he is correct, from the information that he has researched, they became an indirect party, with the organization that is being sued, at the request of a previous Council, which he was not a member. They did not have to become a part of the organization that is now being sued, but was encouraged to become a part, at the behest of this body. Now some years later, as a result of that, they are being held liable by affiliation, and association, not by anything they may have done connected to the lawsuit. In fact, if his research is correct, we encouraged them to become apart because this organization was so poorly demonstrating its involvement of minority firms, so they asked this particular organization to become affiliated to boost our numbers. They could have remained a subcontractor and contracted with the major party throughout the entire project, but at our behest, became a party to the organization being sued to help the County to boost its numbers for SLBEs. And now, we are ready to say we are going to exclude you permanently, until the lawsuit is settled because you are now engaged with an organization that we asked you to be engaged with. He does not have a problem with us not doing business organizations that we are in litigation with. He does have a problem with the way this unfolded, if his chronology is correct.

Mr. Livingston stated we have gone through the process and this group has been selected as the qualified and reasonable bidder. He inquired if there is any legal reasons why we should deny the award of this contract.

Mr. Smith responded he cannot speak to the issue of whether or not there are any legal reasons. He stated, under the County's ordinance, there was a question about whether or not, as a result of them being in litigation, there was a conflict of interest. That particular decision is within the purview of the Procurement Director. Although, legal was asked to look at that particular issue. Whether or not there are any other reasons they may be disqualified, he does not know at this point. He knows there were some issues that were going to be looked at, but he does not know what the result was of those particular issues.

Ms. D. Myers stated, for clarification, Mr. Smith is saying, from a point of legal strategy, if we are suing parties, on the one hand, that on the other hand we could pat them on the back, and then go back before the court and argue some of the same problems.

Mr. Smith responded what he is faced with is not a question of legal strategy, it is what the ordinance provides for. The ordinance provides for there to be a determination there is a conflict if certain things are in place. The person that would make that decision would be the Procurement Director. While he may have a preference, as a County Attorney, his preference would have to take a backseat to what he ordinance says.

Mr. Livingston stated, obviously, the proposals were reviewed, and it was thought this person was the most qualified, based on the proposals. He inquired if there is anything related to procurement whereby this person should be denied the opportunity to be awarded the contract.

Mr. Brown stated, during his conversations with the Procurement Manager, and looking at the ordinance, the ordinance provides for reasons that an entity can be debarred, or suspended, based on known factors. At this point, there were no known factors, according to the ordinance, where it talks about conviction or commission, or someone communicating that they were inappropriately performing services. From a procurement perspective, it was not a question of Brownstone not meeting procurement requirements. It was a question of whether or not, as we talked about earlier, Council, through its decision, had communicated we are not doing business with anyone who has pending legal disputes with Richland County. Nothing has been determined, from Procurement, that Brownstone has performed work inappropriately, or that other actions were taken where convictions are known.

Ms. McBride stated, stated for clarification, based on the Procurement Director, Brownstone meets all of the qualifications necessary to be a contractor with the County.

Mr. Brown responded in the affirmative. The only reason they are before you is because they had already met the qualifications, but that was not the question, in terms of what we are being asked, as to why we would potentially not award them the contract. At a previous Council meeting, it was discussed that Richland County would not award contracts to providers they were in legal dispute with. That would then trigger what we are talking about tonight. If Council takes that vote, it would remove Brownstone, who Legal has indicated is in a legal dispute with the County.

Ms. McBride stated, clearly they met the qualifications, and there were no issues other than the one raised last time about them being in litigation with the County.

Mr. Walker inquired if Brownstone is named individually, jointly, or otherwise as a party in any lawsuit with the County.

Mr. Smith responded the entity known as the PDT, which Brownstone is a member of, was sued collectively. Then, they were all sued individually, as well.

Mr. Walker stated, for clarification, they are currently a named entity in a lawsuit with the County.

Mr. Jackson stated, for clarification, in addition to the lawsuit of the parent organization, Brownstone is individually being sued by the County.

Mr. Smith responded in the affirmative.

Mr. Walker noted that he and a District One School Board member have called for an investigation into the verification of the licensure issue with Brownstone. We have confirmation that an investigation has been launched by State level law enforcement into that issue. Whether you want to give business to a party that you are currently suing, or not, you also have the issue of whether they currently conform to all of our procurement criteria. Some of those criteria has recently been called into question as to whether they are valid and truthful. To him, there is enough smoke, if not flames, to be concerned with the issuance of any future contracts to this entity. He will be the first one to tell you, if, and when, they are cleared, reengaging in business with them, as a County, is of no concern to him. He just wants to make sure that all the smoke has cleared, and the County and Council does not put itself into any worse legal position, with the knowledge we have today.

Mr. Smith stated Council requested a legal opinion regarding the issue of the conflict. Shortly after that, there was a newspaper article that came out regarding what Mr. Walker is referring to. Within that opinion, we also gave some information, but it was his understanding that was going to be

followed up by Procurement. Whatever became of that, in terms of any conclusions they drew, on the issue raised by Mr. Walker regarding the license, he is not sure. He knows that we had a discussion with them, and shared some information that we had, with the understanding this matter needed to be deferred to give them an opportunity to look into that issue. He would assumed we would have gotten some information as to what was found.

Ms. Kennedy stated, for clarification, we are in a legal dispute with Brownstone.

Mr. Smith responded in the affirmative.

Mr. Manning stated this was before us previously, and we held it to have Legal to look into it. Legal did so, and then it was forwarded over to Procurement for review. What is before Council now, is from Procurement. Mr. Brown also said that he had talked with Procurement, and they had done what they needed to. Ultimately, the issue is we have an ordinance that does not cover a situation like this. If we are wanting to make a decision, of Council, to add this into the ordinance, it would require three readings and a public hearing. The concern he has, at this point, is that we were worried about some smoke, maybe fire, if there was smoke, but that it why it was sent back to Legal and staff. The bottom line is, if we do fairness. If we do what our ordinance says. If we do what the Procurement policy says, then we are to the point where we have this before us, and if we decide, on this particular issue, rather than adding it to an ordinance, for future consideration, to forgo the Procurement ordinance, is really disturbing. It concerns him that 6 people could get together, on any willy-nilly thing, and decide to forgo a County ordinance. He stated, if he is correct, these issues were all raised. It went to Legal and Procurement. They looked at everything, in terms of Procurement and the ordinance, and they are back saying there is nothing in the rules of procurement to exclude this situation.

Mr. Smith responded from Legal's perspective that is correct.

Ms. Wladischkin also responded that Mr. Manning was correct.

Mr. Malinowski inquired if the procurement policy stated that we must take the top-ranked firm.

Ms. Wladischkin responded, the way the ordinance reads, award goes to the highest ranked offeror, which is most advantageous to the County. If we are unsuccessful in negotiating a contract with that offeror, we would go to the 2<sup>nd</sup> ranked offeror, etc. Council could decide that it is advantageous and cancel the solicitation, if they so choose.

Mr. Malinowski stated he does not know that it is most advantageous to enter into a contract with someone we are in litigation with.

In Favor: Malinowski, Terracio, Walker, Myers and Newton

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

The substitute motion failed.

Mr. Walker requested the Administrator to restate staff's recommendation.

Mr. Brown stated staff's recommendation that Mr. Manning is referring to is what is included in the agenda packet, which was to award the contract to the highest ranked vendor, Brownstone. The

recommendation referenced earlier, was based on if Council was deciding not to award a contract to a vendor that the County is in a legal dispute with.

Mr. Manning stated, for clarification, his motion is in reference to p. 101 of the agenda packet, which says, "The evaluation team recommends awarding the North Main Street Widening Project, CE&I services to the top ranked company, Brownstone Construction Group, not exceed \$165,473.19. Additionally, recommend approval of a contingency amount of \$ 35,484.08 for approved overtime."

Mr. Walker requested Mr. Brown's current recommendation, based on the information he now has.

Mr. Brown stated the information he has is, if Council does not wish to award contracts to businesses that are involved in legal disputes with Richland County, then the recommendation would be to award the contract to the 2<sup>nd</sup> highest ranked vendor on the list because the highest ranked vendor is involved in a legal dispute with the County.

Mr. Walker requested the Chair to restate the motion on the floor.

Mr. Livingston stated the motion on the floor is, "The evaluation team recommends awarding the North Main Street Widening Project, CE&I services to the top ranked company, Brownstone Construction Group, not exceed \$165,473.19. Additionally, recommend approval of a contingency amount of \$ 35,484.08 for approved overtime."

Mr. Walker stated, for clarification that was a previous recommendation, which has now been superseded by the current recommendation of the Administrator.

Mr. Livingston inquired if Mr. Brown offered a new recommendation to Council on this item.

Mr. Brown responded the recommendation he just stated, goes to the point, if Council does not want to award contract to businesses that are in legal dispute with Richland County. At a previous Council meeting, this was a conversation Council had. If that is Council's will, it would prevent us from awarding the contract to Brownstone because we are in a legal dispute with them.

Ms. McBride moved, seconded by Ms. Dickerson, to defer this item.

In Favor: Dickerson, McBride, Livingston and Terracio

Opposed: Malinowski, Walker, Kennedy, Manning, Jackson, Myers and Newton

The motion for deferral failed.

Mr. Manning inquired if the information Mr. Brown presented was contained in the agenda packet.

Mr. Brown responded it was not included in the agenda packet.

Mr. Manning stated we held this up before because we wanted to review the ordinance and look at the procurement process to determine if the concerns some have had about this organization, and a legal dispute they may be involved in with the County, was included in the ordinance. In terms of fairness, of the process, it was not included in the ordinance, and he does not think the way we redo ordinances is on a whim. We would be setting a precedent of not following the ordinance because there is some "smoke" out there.

Mr. Malinowski stated, after hearing what Ms. Wladischkin said, part of the procurement policy states, the number one ranked, and most advantageous company to the County. He does not believe it is advantageous to award a contract to someone you are in a legal suit with.

Ms. Terracio made a substitute motion, seconded by Mr. Malinowski, to accept the advice of the County Administrator, and not move forward with the award of a contract to Brownstone, but to award the contract to the 2<sup>nd</sup> highest ranked bidder.

Mr. Livingston inquired if that is Mr. Brown's recommendation.

Mr. Brown responded, his recommendation, based on Council's decision not to include any awards for individual groups, or vendors, who are in a legal dispute with Richland County.

Mr. Livingston stated Council has not made that decision. He inquired if Mr. Brown's recommendation is contingent upon that decision.

Mr. Brown responded in the affirmative.

Mr. Manning inquired when the decision was made.

Mr. Brown responded that he mentioned earlier that Council discussed that, but they had not taken that action, which is why he said what he said earlier.

Mr. Jackson stated, if the Administrator is now saying he is not recommending that we go with the organization that was recommended before, based upon his current understanding, and learning tonight the organization is named directly as being sued by the County, he is willing to accept the Administrator's recommendation.

Ms. McBride stated, based on the Administrator's comments, and Council has not approved not accepting anybody in litigation with Council, she is concerned about the legal ramifications of us not accepting Brownstone, after they have been vetted and approved by Procurement. At this point, we do not have the ordinance in place that Mr. Brown spoke of.

Mr. Smith stated if we are going to discuss any ramifications it would need to be addressed in Executive Session.

Mr. Jackson moved, seconded by Ms. McBride, to defer this item until after Executive Session.

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

Opposed: Walker

The vote was in favor of deferral until after Executive Session.

18. **EXECUTIVE SESSION**

- a. Sale of Farrow Road Property
- b. Personnel Matter
- c. North Main CEI Services Contract Approval

Ms. Terracio moved, seconded by Ms. McBride, to go into Executive Session.

Mr. Malinowski stated one of the items we are to discuss in Executive Session is the sale of property. It is his understanding, it is because a contract that needs to be discussed. He inquired if the Economic Development Committee previously recommended to Council that the Administrator enter into negotiations for the sale of this property.

Mr. Ruble responded the Economic Development Committee voted to authorize the Administrator to negotiate a contract.

Mr. Malinowski stated, for clarification, it never came to Council for approval.

Mr. Ruble responded in the affirmative.

Mr. Malinowski stated Council Rules state the Economic Development Committee is an advisory committee. The committee considers economic development matters that come before them, and make recommendations to the full Council, not make recommendations to the Administrator. He does not believe this item is properly before us because Council has not decided the Administrator should negotiate something. He is requesting this item not be discussed in Executive Session, since it is not properly before us.

Mr. Livingston inquired if there was language in the agreement that it is contingent upon Council's approval.

Mr. Ruble responded it is clearly stated in the agreement.

Mr. Livingston stated we have customarily handled these matters this way.

Mr. Malinowski stated we have that language when Council has approved for someone to enter negotiations. If we start allowing every committee to arbitrarily direct someone to enter into negotiations, we might as well get rid of the process for vetting things.

Mr. Manning stated, according to the minutes of the March 3, 2020 Special Called Meeting, Ms. Dickerson inquired if this is the same property we were using for the soccer and baseball fields, and Mr. Ruble indicated it was not. He inquired if that was still a true and accurate statement.

Mr. Ruble stated he believes he answered incorrectly. The property was originally considered for soccer fields, and purchased for that reason.

Ms. Dickerson stated she directly asked whether that was the property on Farrow Road that was supposed to be for soccer or baseball fields, and was later considered for a waterpark. She was told this was not the property.

Ms. Kennedy stated this property is in her district, and it was not brought to her attention. This is the same property she denied a couple years ago for a waterpark. She would like to defer the item, so she can discuss it with the residents in that area.

Ms. Kennedy moved, seconded by Mr. Malinowski, to defer the "Sale of Farrow Road Property" item.

Mr. Livingston inquired if there was any information that could be shared in Executive Session that would be helpful with this issue.

Mr. Ruble responded they met with Ms. Kennedy and provided the information they had, and that information has not changed. As far as the process goes, he believes they followed the process they understood was correct, in terms of bringing a contract to the Council versus not having our "t's" crossed and our "i's" dotted.

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

Opposed: Livingston, Walker, Manning and Jackson

The motion was in favor of deferring the "Sale of Farrow Road Property" item.

Mr. Manning moved, seconded by Mr. Malinowski, to divide the question.

Mr. Malinowski requested clarification on how the question is being divided.

Mr. Manning responded one would be the Contractual Matter: Personnel Matter and the other Contractual Matter: North Main CEI Services Contract Approval.

Mr. Malinowski stated he did not think "Brownstone" was an Executive Session item.

Mr. Smith responded the issue was initially not an Executive Session item; however, Ms. McBride asked him a question, which requires legal advice.

In Favor: Malinowski, McBride, Livingston, Kennedy, Manning, and Jackson

Opposed: Terracio, Dickerson, Walker, Myers and Newton

The vote was in favor of dividing the question.

North Main CEI Services Contract Approval:

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

Opposed: Malinowski, Walker, Manning and Jackson

The vote was in favor of taking this item up in Executive Session.

Contractual Matter: Personnel Matter:

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

Opposed: Walker

The vote was in favor of taking this item up in Executive Session.

***Council went into Executive Session at approximately 10:35 PM and came out at approximately 11:16 PM***

Ms. Terracio moved, seconded by Mr. Walker to come out of Executive Session.

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

The vote in favor was unanimous.

- a. Personnel Matter – Mr. Livingston moved, seconded by Mr. Malinowski, to proceed as discussed in Executive Session.

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

Opposed: McBride, Terracio, Walker, Myers and Newton

Abstain: Manning

The motion failed.

- b. North Main CEI Services Contract Approval – Ms. Terracio restated her earlier substitute motion as follows: to accept the advice of the County Administrator, and not move forward with the award of a contract to Brownstone, but to award the contract to the 2nd highest ranked bidder.

In Favor: Malinowski, Terracio, Walker, Jackson, Myers and Newton

Opposed: Livingston and Manning

Abstain: Dickerson, McBride and Kennedy

The vote was in favor.

Ms. Dickerson stated, on the record, she abstained on this item because she is not sure of the legal ramifications.

Ms. McBride stated, on the record, she abstained on this item because of the legal ramifications from both sides, and she needs further clarification on the matter.

Ms. Kennedy stated, on the record, she abstained because she needed further clarification.

Mr. Malinowski moved, seconded by Mr. Walker, to reconsider this item.

In Favor: Livingston

Opposed: Malinowski, Terracio, Walker, Manning, Jackson, Myers and Newton

The motion for reconsideration failed.

#### 19. MOTION PERIOD

- a. I move to establish an Affordable Housing Trust Fund for Richland County as a benefit to the public. Housing is considered to be 'affordable' when 30% or less of one's income is spent on housing and utilities. In Richland County, nearly half of renters pay more than a third of their income on rent and utilities [TERRACIO] – Ms. Terracio amended the language as follows: "I move to evaluate affordable housing options, to include the option of creating an Affordable Housing Trust Fund..."

This item was deferred to the D&S Committee.

20. **ADJOURNMENT** – The meeting adjourned at approximately 11:30 PM.