



Richland County Council
SPECIAL CALLED
December 17, 2020 – Immediately Following Zoning Public Hearing
Zoom Meeting

COUNCIL MEMBERS PRESENT: Paul Livingston Chair, Bill Malinowski, Joyce Dickerson, Yvonne McBride, Allison Terracio, Jim Manning and Chakisse Newton

OTHERS PRESENT: Michelle Onley, Leonardo Brown, John Thompson, Angela Weathersby, Kyle Holsclaw, Michael Maloney, Ashiya Myers, Ashley Powell, Bill Davis, Chris Eversmann, Dante Roberts, Elizabeth McLean, Judy Carter, Stacey Hamm, Dwight Hanna, Brad Farrar, Michael Byrd, Larry Smith, Tariq Hussain, Lori Thomas, Tamar Black, James Hayes and Jennifer Wladischkin

1. **CALL TO ORDER** – Mr. Livingston called the meeting to order at approximately 7:15 PM.
2. **ADOPTION OF AGENDA** – Ms. Terracio moved, seconded by Ms. Newton, to adopt the agenda.

Ms. Terracio requested to add the following two items from the D&S Committee: Items 4(b): “SCDOT Snow and Ice Removal Agreement (Local Governments) and Item 4(c): Comprehensive Transportation Improvement Plan (CTIP) with Capital Improvement Project (CIP) budgets and proposed Projects for FY21.

Mr. Livingston requested staff to speak to why these items need to be added to the agenda.

Dr. Thompson stated the first item, it is an opportunity for Richland County to partner with SCDOT. It is his understanding, for the first time, SCDOT is giving funding to local municipalities to help remove ice and snow from roads. As this opportunity comes about, we want to have that agreement in place so that we can receive reimbursement from SCDOT. For the CTIP item, staff is meeting with the CTC in early February. Staff has a plan to pursue \$2.7 - \$ 2.9 million dollars in funding for projects. However, staff cannot go forth to CTC without first coming to Council for approval. The purpose of getting the approval from this body is that if CTC gives Richland County the funding for those projects that would free up our funding at the County level so that we can invest in paving dirt roads, which is a big part of what heard from this body.

Mr. Livingston stated for clarification, the committee’s recommendation was to add these two items to the agenda.

Ms. Terracio responded in the affirmative.

Mr. Malinowski noted Council Rule 1.5(b) states that 24-hour’s notice has to be given to Council, and the public, about a Special Called Meeting, which was given. It goes on to say that members of Council must be informed of the subjects to be discussed at a meeting. Those subjects were given in the agenda before us, so therefore he does not believe it is proper to add these items be they time-sensitive or not. These committee agendas were made up, at least by last Friday, because he received his last Friday. Therefore, if there was a time-sensitive item, we could have had these items mentioned to us so that the Chair could have added them to the agenda prior to tonight. It was not until the committee meetings, approximately 2-hours ago that all of

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a sudden somebody realized we have some time-sensitive items and we would like to add them to the Special Called Meeting. The only reason for the Special Called Meeting was to deal with the County Attorney matter. If the County Attorney matter had been completed, there would be no Special Called meeting, unless staff reached out to the Chair and asked for it. If you have an opportunity to get \$2 - \$2.5 million dollars and you do not think it is important enough to ask in advance of the meeting to put it on the agenda, then he does not think the job is being done. To ask at a committee meeting, 2 hours prior to the Special Called Meeting, is improper and he does not believe it is within the rules of Council.

Mr. Livingston inquired where in Council Rules Mr. Malinowski was referring.

Mr. Malinowski responded Rule 1.5(b) where it talks about "Special Meetings." He stated he did not think this was properly before them and he requested input from the parliamentarian.

Ms. Dickerson stated she agreed with Mr. Malinowski regarding the rules and regulations, but this is not the first time we have done this. We have Economic Development meetings an hour before and we put those items on the agenda.

Mr. Malinowski requested a legal opinion.

Mr. Smith responded, in terms of what Mr. Malinowski said, there are two items at stake. One is what Council Rules say and one is what the State Law says under FOIA (Freedom of Information Act) for notice to the public. Under FOIA, you can add things to the agenda that were not initially on the agenda with a 2/3 vote of the members of Council that are present, and Council finds that it is an emergency type situation. In regard to the Council Rules, they appear to be a little more stringent, in terms of when the information should get to Council. Based on what Mr. Malinowski stated, it appears the information was not given to Council in a timely fashion. In order to remedy that, Council could always vote to waive the rules, and in order to that it would require unanimous consent of Council.

Mr. Livingston stated, based on what Mr. Smith said, the motion before them would require unanimous consent.

Mr. Manning suggested it would take the 2/3 vote. If the question is whether the information was provided to Council prior to the meeting, it was because the information was a part of the committee packets sent out several days ago. That puts us to the question of adding it, and in terms of an emergency, he suggested since the County is under an emergency order due to COVID, and the amount of money attributed to this, he would consider that to meet the statute of the State law.

Mr. Malinowski noted just because the information was included in a committee agenda packet, does not necessarily mean Councilmembers read that. Some Councilmembers wait until it gets to full Council before they review the information.

Mr. Livingston stated he cannot be held responsible for when a Councilmember reads that information.

Mr. Malinowski responded he is not sure providing information in a committee agenda constitutes providing it to full Council.

Mr. Manning responded he would contend that if it was sent to full Council, then full Council would have it.

Mr. Livingston inquired if full Council was provided the information that was given to the Committee.

Ms. Onley responded in the affirmative.

Mr. Livingston agreed full Council was given the information. Based on the information he has he believes it would require the 2/3 vote.

In Favor: Dickerson, McBride, Livingston, Terracio, Manning, Newton

Opposed: Malinowski

Not Present: Walker, Kennedy, Myers

The vote was in favor.

Ms. Dickerson requested to add the following items from the A&F Committee: 4(b): "Richland School District One's Intergovernmental Agreement (IGA) to connect to the Southeast Sewer and Water Expansion Service" and 4(c) : "Request for Sewer Availability Approval for a Proposed Development on Old Tamah Road, Irmo". She noted these items are time-sensitive as well.

Mr. Livingston requested staff to speak to the urgency and importance of these items moving forward.

Dr. Thompson responded, regarding the IGA with Richland School District One, the purpose was the Southeast Sewer and Water Expansion is an ongoing project. This is an opportunity for the County to secure \$2.5 million dollars of funding from Richland School District One on this project. We do not want to delay this project until February when Council reconvenes.

Mr. Livingston inquired what would happen if they did not approve this item.

Dr. Thompson responded the exposure on the County. We do not want to build anything on their property, if they are not going to provide us the funds. To truly secure the money, and this has been an ongoing issue for a number of years, we want to solidify this IGA. It is the desire of Council to secure the \$2.5 million dollars, so we want to make sure we continue moving forward on this project. In regard to the "Request for Sewer Availability Approval for a Proposed Development on Old Tamah Road, Irmo". The developer is looking to move forward on development. We wanted to bring this to Council, so it does not appear the County is holding up the developers and their progress.

Ms. Dickerson moved, seconded by Ms. McBride, to add these two (2) item from the A&F Committee to the Special Called Meeting agenda.

Mr. Malinowski noted some of the comments from staff were "they do not want to delay something", "it is an ongoing issue for years", "people worked hard on it", "we do not want to have businesses think that Richland County is holding up progress because we do not move things forward". If these are facts, he believes we need to step back and take a look at ourselves. As he stated previously, if these things were so important, why were they not presented to the Chair to be added to this Special Called Meeting prior to tonight? He hopes we can get better performance moving forward in the next year.

Mr. Livingston stated he understood Mr. Malinowski's concerns about getting these items ahead of time. He voted for the first additions primarily because some of that is not controlled by us, but some of the things we can control better.

In Favor: Dickerson, McBride, Livingston, Terracio, Manning, Newton,

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Opposed: Malinowski

Not Present: Walker, Kennedy, Myers

The vote was in favor.

Mr. Livingston stated, for clarification, the agenda is as follows:

2(a): "SCDOT Snow and Ice Removal Agreement (Local Governments)"

2(b): "Comprehensive Transportation Improvement Plan (CTIP) with Capital Improvement Project (CIP) budgets and proposed Projects for FY21"

2(c): "Richland School District One's Intergovernmental Agreement (IGA) to connect to the Southeast Sewer and Water Expansion Service"

2(d): "Request for Sewer Availability Approval for a Proposed Development on Old Tamah Road, Irmo, SC29063 Tract (Tax # R03500-04-41)"

- a. SCDOT Snow and Ice Removal Agreement (Local Governments) – Ms. Terracio stated the D&S Committee recommended approval of this item.

In Favor: Malinowski, Dickerson, McBride, Livingston, Terracio, Manning, Newton

Not Present: Walker, Kennedy, Myers

The vote in favor was unanimous.

- b. Comprehensive Transportation Improvement Plan (CTIP) with Capital Improvement Project (CIP) budgets and proposed Projects for FY21 – Ms. Terracio stated the D&S Committee recommended approval of staff's recommendation.

In Favor: Dickerson, McBride, Terracio, Manning, Newton

Opposed: Malinowski

Present but Not Voting: Livingston

Not present: Walker, Kennedy, Myers

The vote was in favor.

- c. Richland School District One's Intergovernmental Agreement (IGA) to connect to the Southeast Sewer and Water Expansion Service – Ms. Dickerson stated the A&F Committee recommended approval of this item.

In Favor: Malinowski, Dickerson, McBride, Livingston, Terracio, Manning, Newton

Not present: Walker, Kennedy, Myers

The vote in favor was unanimous.

- d. Request for Sewer Availability Approval for a Proposed Development on Old Tamah Road, Irmo,

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SC29063 Tract (Tax # R03500-04-41) – Ms. Dickerson stated the A&F Committee recommended approval of this item.

In Favor: Malinowski, Dickerson, McBride, Terracio, Manning, Newton.

Present but Not Voting: Livingston

Not present: Walker, Kennedy, Myers

The vote was in favor.

Ms. Dickerson moved, seconded by Mr. Manning, to reconsider item 2 (a),(b),(c), and(d).

In favor: Malinowski for 2(b) only

Opposed: Malinowski, Dickerson, McBride, Terracio, Manning, Newton.

Present but Not Voting: Livingston

Not present: Walker, Kennedy, Myers

The motion for reconsideration failed.

POINT OF ORDER: Mr. Manning recognized the D&S Chair, Ms. Terracio and A&F Chair, Ms. Dickerson. These were four very important matters to the citizens of Richland County, and they took a lot upon themselves earlier today, and this evening, to see that in spite of a number of procedural hurdles that these matters were taken care of for the citizens of Richland County.

3. EXECUTIVE SESSION

Personnel/Contractual Matter: County Attorney and Procuring of Additional Supporting Staff – Mr. Livingston stated the next item was a contractual matter that requires Executive Session.

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

In Favor: Malinowski, Dickerson, McBride, Livingston, Terracio, Manning, Newton

Not Present: Walker, Kennedy, Myers

The vote in favor was unanimous.

Council went into Executive Session at approximately 7:53 PM and came out at approximately 8:49 PM

Mr. Manning moved, seconded by Mr. Malinowski, to come out of Executive Session.

In Favor: Malinowski, Dickerson, McBride, Livingston, Terracio, Manning, Newton

Not present: Walker, Kennedy, Myers

The vote in favor was unanimous.

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Mr. Livingston moved, seconded by Mr. Malinowski, that Council enter into an employment agreement with Ms. McLean for the Acting County Attorney, as discussed in Executive Session, and the agreement will be executed by the Chair prior to January 1, 2021. Also, Council supports the support staff for transition, as outlined in Executive Session.

In Favor: Malinowski, Dickerson, McBride, Livingston, Terracio, Manning, Newton.

Not Present: Walker, Kennedy, Myers

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

Opposed: Malinowski, Dickerson, McBride, Livingston, Terracio, Manning, Newton

Not Present: Walker, Kennedy, Myers

The motion for reconsideration failed.

POINT OF PERSONAL PRIVILEGE: Mr. Smith thanked Council for their support over the years. This was his last official meeting, so he wanted to thank his staff for all their support, as well as the member of Council.

Ms. Dickerson also wanted to thank everyone for their years of support as well.

4. **Contractual Matter: Search firm for Richland County Attorney** – No action was taken.

5. **ADJOURNMENT** – The meeting adjourned at approximately 8:55PM