



Richland County Council
Regular Session
MINUTES
April 19, 2022 – 6:00 PM
2020 Hampton Street, Columbia, SC 29204

COUNCIL MEMBERS PRESENT: Overture Walker, Chair, Jesica Mackey, Vice-Chair, Bill Malinowski, Derrek Pugh, Yvonne McBride, Paul Livingston, Allison Terracio, Joe Walker, Gretchen Barron, Cheryl English and Chakisse Newton

OTHERS PRESENT: Michelle Onley, Kyle Holsclaw, Ashiya Myers, Randy Pruitt, Michael Byrd, Stacey Hamm, Dale Welch, Geo Price, Jeff Ruble, Leonardo Brown, Tamar Black, Lori Thomas, Patrick Wright, Justin Landy, Aric Jensen, Abhi Deshpande, Anette Kirylo, Brittney Hoyle-Terry, Quinton Epps, Judy Carter, Dante Roberts and Dwight Hanna

1. **CALL TO ORDER** – Chairman O. Walker called the meeting to order at approximately 6:00PM.
2. **INVOCATION** – The Invocation was led by the Reverend Adam China on behalf of the Honorable Jesica Mackey.
3. **PLEDGE OF ALLEGIANCE** – The Pledge of Allegiance was led by the Honorable Jesica Mackey.
4. **APPROVAL OF MINUTES**
 - a. **Regular Session: April 5, 2022** – Mr. Livingston moved, seconded by Ms. Barron, to approve the minutes as distributed.

In Favor: Malinowski, Pugh, McBride, Livingston, Terracio, J. Walker, Barron, O. Walker, Mackey, English and Newton

The vote in favor was unanimous.
5. **ADOPTION OF AGENDA** – Ms. Barron moved, seconded by Mr. J. Walker, to adopt the agenda as published.

In Favor: Malinowski, Pugh, McBride, Livingston, Terracio, J. Walker, Barron, O. Walker, Mackey, English and Newton

The vote in favor was unanimous.
6. **REPORT OF THE ATTORNEY FOR EXECUTIVE SESSION ITEMS** – The County Attorney, Mr. Patrick Wright, stated the following items qualify for Executive Session:
 - a. **Pineview Park Contractual Matter**
 - b. **Alvin S. Glenn Detention Center**

Special Called
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Mr. Wright indicated the “Land Development Code Re-Write Ordinance” item may be discussed in open session.

Land Development Code Re-Write Ordinance – Mr. Wright indicated there are changes that need to be made to the approved ordinance because the dates included will not be realized, as previously thought.

Ms. Barron moved, seconded by Mr. Livingston, to discuss the Land Development Code Re-Write Ordinance now, and go into Executive Session at the end of the meeting.

In Favor: Malinowski, Pugh, McBride, Livingston, Terracio, J. Walker, Barron, O. Walker, Mackey, English and Newton

The vote in favor was unanimous.

Mr. Wright noted the issue is in the approved ordinance, Section II. Interim Procedures, (a) and (d), there are dates, but because certain things have not come before Council from the Planning Commission, the ordinance may need to be amended to say, “become effective as part of the adoption of the map amendment ordinance” instead of having a specific date. The recommendation is to amend Sections II, III and VI to remove the specific dates.

Mr. Malinowski inquired if the amendment would require 3 Readings and a public hearing.

Mr. Wright responded in the affirmative.

Mr. Malinowski suggested, instead of amending portions of the ordinance, to revert back to the previous Land Development Code. He stated any property owner, individually or as a business, that wants to develop will have something to follow.

Mr. Malinowski moved, seconded by Mr. O. Walker, to revert back to the previous Land Development Code, until the map is complete, and all other items related to the new Land Development Code are settled.

Ms. McBride inquired if the County is currently under the Land Development Code Mr. Malinowski is referring to.

Mr. Geo Price, Deputy Community Planning and Development Director/Zoning Administrator, responded we are currently operating under the current Land Development Code.

Mr. O. Walker inquired about which Land Development Code Mr. Price was referring to.

Mr. Price responded the code that was in existence prior to November 2021.

Mr. J. Walker stated, for clarification, if we pass the motion as presented, it is business as usual for the Planning Department until such time as we approve the new Land Development Code.

Mr. Price responded in the affirmative. He noted that any re-zonings will come in under the new Land Development Code.

Mr. J. Walker stated, for clarification, business as usual means no blanket re-zoning yet. Any applications for new zoning are considered under the newly adopted Land Development Code. For example, if Mr. Malinowski’s motion passes there is no blanket, everything stays status quo, until such point when the new Land Development Code is voted on 3 times, has a public hearing, and is adopted. However, zoning applications, from today until that same point and time, would be considered under the new Land Development Code.

Mr. Price responded that would be determined by Council. If we are going to go back to business as usual, he would assume we would go back to the zoning designations under the previous zoning ordinance.

Mr. J. Walker inquired how that be muddle the existing pipeline. He inquired if we have people that would be effected because they have already submitted for re-zoning and staff is reviewing their application, and can be maintain operational efficiency under the structure of the motion.

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Mr. Price responded in the affirmative. They currently have a few applications under the new Land Development Code. He indicated they can make contact with the applicants and find an equivalent zoning under the previous code and allow them to proceed on with their request.

Ms. Barron stated she wants to ensure this motion says we are not dealing with the ordinance from November 2021 until the Planning Commission gets something solid that is palatable to the body.

Mr. Price requested Council to establish which way they wish to proceed.

Mr. Pugh inquired if we currently have developers preparing land in expectation of the new code being passed.

Mr. Price responded they have met with a number of developers, and they have looked at what is proposed. Some are waiting to see what Council ultimately decides with the remapping. The developers are not prepping land in anticipation of this ordinance being passed. Normally they do not go through that exercise unless you know you have the zoning in place that would allow the use.

Ms. McBride inquired if a zoning application currently were to come in, what would staff do.

Mr. Price responded, as part of the ordinance adopted in November, any zonings that come in would have to go by the new Land Development Code. There are a few that will be scheduled to go before the Planning Commission. If it is decided to go back to the original Land Development Code, staff would have a conversation to find a similar zoning to their request, and determine if they would like to proceed.

Ms. McBride stated, it was her impression, Mr. Malinowski's motion is to revert back to what we are currently doing.

Mr. Malinowski noted his motion is to go back to what we were doing prior to the new Land Development Code being adopted in November 2021.

Ms. Newton stated, for clarification, if there a property was zoned rural, the individual would construct their home according the previous rural designation.

Mr. Price responded in the affirmative.

Ms. Newton stated the implications of Mr. Malinowski's motion are exclusively experienced, as it related to zoning and re-zoning requests, and not to current homeowners or landowners trying to build a house. In other words, someone currently building a home is doing so under the previous code; therefore, passing Mr. Malinowski's motion would not affect them. It would only affect someone with a re-zoning request.

Mr. Wright stated, if Council's desire is to revert back to the previous Land Development Code, you would want to rescind the November 2021 ordinance.

Mr. O. Walker stated, for clarification, we are pretty much operating as business as usual.

Mr. Price responded, from the development standpoint, we are operating as usual. Any re-zonings that come in, will be under the new Land Development Code.

Mr. Livingston inquired as to what happens if someone that is applying for a re-zoning has an option to do it under the current Land Development Code or the previous Land Development Code.

Mr. Price stated, if they applied for the former Land Development Code, they would be able to develop as such. If they were to apply for one of the new Land Development Code districts, then they would not be able to proceed with development under those standards because we have not fully adopted the code and mapping.

Ms. Newton inquired if there are any other implications they need to be aware of, if they were to make this change.

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Mr. Price responded, none he is aware of.

Ms. Newton inquired about the advantages and disadvantages to the County, in terms of this action.

Mr. Price responded one of the advantages would be more dialog, and the citizens would have a better understanding. A disadvantage would be having to go back through the notification process, which may require staff to do another mail out to all of the citizens.

Ms. Newton inquired if the rescinding option the only option, or is there another option that would achieve the intent.

Mr. Wright responded the two options are to rescind the ordinance or remove the dates from the ordinance. If we change the dates, everything will remain as is, but will take place once the remapping process is completed.

Mr. Aric Jensen, Assistant County Administrator, essentially what we are proposing is to move from a fixed date to an open-ended date for implementation of the ordinance.

Ms. Barron stated, from day one, this process has seemed somewhat convoluted. She inquired if the process we are taking has to be done that way. It seems like if we had the text and the map, hand-in-hand, we could look at and make sense out of it. We are trying to marry them, but somewhere along the lines it seems something has gotten confused. She inquired if there is a better route we can take where we can work on both of them to make sense.

Mr. Price responded he believes we are at the point now where that is what we are doing. He noted we had to have the text in place so everyone would know exactly what they were doing. Trying to put them together would have caused even more confusion. This process we are doing now, allows for additional meetings and discussions.

Ms. Barron stated she does not think it was presented in the best manner. We are back, months later, doing something we could have done at the beginning.

Mr. Malinowski stated moving to an open-ended date still leaves what was approved in November 2021 in place, which puts people in limbo that are trying to develop a piece of property. By removing that and reverting back to what we had in place before, or rescinding what was done, it allows anybody to move forward with any type of re-zoning they would like to request. We do not know when we are going to finish the mapping process.

Mr. Jensen stated the downside of rescinding is that you go back to square one, so you lose all of the time and money you have invested over the last 5 years. The upside is you have given Planning Commission, and the public, directions as to what it wants done. If the direction of Council is that staff continue to accept and process applications under the existing code, while this other process moves forward, that is fantastic.

Mr. Livingston made a substitute motion, seconded by Ms. Newton, to amend the current ordinance and allow someone to request re-zoning under the previous ordinance.

Mr. Malinowski stated, he took deference with Mr. Jensen's comment that we have been holding public hearings for the last 5 years. We can have one public hearing, unless Council approves more than one. He noted Council has not been receiving information for the last 5 years about this matter, which is why we are where we are right now. He stated approximately 10 years ago, he asked staff about some changes and was told they were rewriting the code.

Ms. Barron inquired how Mr. Livingston's motion impacts re-zoning.

Mr. Jensen stated the recommendation of staff is to amend the dates in the existing ordinance language, so it is an open-ended date. Effectively, everything existing in the code, continues until such time as the ordinance becomes effective. The new ordinance will become effective when the Planning Commission makes a recommendation to Council on the zoning map, and Council adopts it. Until then, it is the existing code.

Ms. Barron responded she needs to hear this includes re-zoning because that is not what was stated earlier.

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Mr. Brown stated that is Mr. Livingston's motion.

Mr. Livingston reiterated that was the intent of his motion.

Ms. Newton inquired if this amendment also includes 3 Readings and a public hearing.

Mr. Wright responded in the affirmative.

Ms. Mackey requested Mr. Livingston restate the motion.

Mr. Livingston stated to amend the ordinance that was passed in November 2021 to allow someone to request re-zoning under the previous ordinance.

Ms. Terracio inquired if there is a proposed end date.

Mr. Livingston responded when the new ordinance is adopted.

In Favor: Pugh, McBride, Livingston, Terracio, O. Walker, Mackey, English and Newton

Opposed: Malinowski, J. Walker and Barron

The vote was in favor of the substitute motion.

7. **CITIZENS' INPUT**

- a. **For Items on the Agenda Not Requiring a Public Hearing** – Ms. Mackey stated the subject matter the individuals had signed up to speak to had previously had a public hearing. Therefore, according to Council Rules, the individuals were unable to speak to this matter.

8. **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)**

- 1. Mr. Thurmond Guess, 3111 Two Notch Road, Apt. 124, Columbia, SC 29204 – Easement Right-of-Way
- 2. Mr. Steve Krietemeyer, 109 Rose Creek Lane, Columbia, SC 29229 – Affordable Housing Trust Fund

9. **REPORT OF THE COUNTY ADMINISTRATOR** – No report was given.

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

11. **REPORT OF THE CHAIR** – No report was given.

12. **SECOND READING ITEMS**

- a. **Authorizing the execution and delivery of a fee-in-lieu of ad valorem taxes agreement by and between Richland County, South Carolina and [Project Gamecock] to provide for payment of a fee-in-lieu of taxes; and other related matters** – Ms. McBride moved, seconded by Mr. J. Walker, to approve this item.

In Favor: Malinowski, Pugh, McBride, Livingston, Terracio, J. Walker, Barron, O. Walker, Mackey, English and Newton

The vote in favor was unanimous.

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- b. **Authorizing the execution and delivery of a fee-in-lieu of ad valorem taxes agreement by and between Richland County, South Carolina and Project Laser to provide for payment of a fee-in-lieu of taxes; and other related matters** – Ms. McBride moved, seconded by Mr. J. Walker, to approve this item.

In Favor: Malinowski, Pugh, McBride, Livingston, Terracio, J. Walker, Barron, O. Walker, Mackey, English and Newton

The vote in favor was unanimous.

- c. **Authorizing the execution and delivery of a fee-in-lieu of ad valorem taxes and incentive agreement by and between Richland County, South Carolina and Project Vanguard to provide for payment of a fee-in-lieu of taxes; authorizing certain infrastructure credits; the conveyance of certain real property to Project Vanguard; and other related matters** – Ms. McBride moved, seconded by Mr. J. Walker, to approve this item.

In Favor: Malinowski, Pugh, McBride, Livingston, Terracio, J. Walker, Barron, O. Walker, Mackey, English and Newton

The vote in favor was unanimous.

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

- a. **A Resolution acknowledging the acquisition of the Carolina Pines Industrial I, LLC, by CH Carolina Pines, LLC and consenting to the transfer of the fee-in-lieu of tax agreement with Richland County from Carolina Pines I, LLC to CH Carolina Pines, LLC** – Mr. Livingston stated the committee recommended approval of this item.

In Favor: Malinowski, Pugh, McBride, Livingston, Terracio, J. Walker, Barron, O. Walker, Mackey, English and Newton

The vote in favor was unanimous.

- b. **A Resolution (1) approving the assignment to Exeter 1020 Jenkins Brothers (2020), LLC of all the rights, interests, and obligations of Mid-South 1080 Jenkins Brothers (SC), LLC (f/k/a Exeter 1080 Jenkins Brothers, LLC) (“Mid-South”) under that certain fee agreement between Mid-South and Richland County, South Carolina (“Fee Agreement”), (2) authorizing the county’s execution and delivery of an assignment and assumption of fee agreement in connection with such assignment; and (3) authorizing other matters relating thereto** – Mr. Livingston stated the committee recommended approval of this item.

In Favor: Malinowski, Pugh, McBride, Livingston, Terracio, J. Walker, Barron, O. Walker, English and Newton

Recuse: Mackey – due to her parent company representing the company. (Recusal form on file).

The vote in favor was unanimous.

- c. **Authorization for Task Order #1 under the Master Agreement between Richland County and Thomas & Hutton Engineering Co.** – Mr. Livingston stated the committee recommended approval of this item.

In Favor: Malinowski, Pugh, McBride, Livingston, Terracio, J. Walker, Barron, O. Walker, Mackey, English and Newton

The vote in favor was unanimous.

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Mr. J. Walker moved, seconded by Ms. Mackey, to reconsider Items 13 (a) – (c).

Opposed: Malinowski, Pugh, McBride, Livingston, Terracio, J. Walker, Barron, O. Walker, Mackey, English and Newton

The motion for reconsideration failed.

14. **OTHER ITEMS**

- a. **Administrator’s Office – Pawmetto Lifeline Request** – Ms. Mackey moved, seconded by Ms. Barron, to approve this item.

In Favor: Malinowski, Pugh, McBride, Livingston, Terracio, J. Walker, Barron, O. Walker, Mackey, English and Newton

The vote in favor was unanimous.

POINT OF PERSONAL PRIVILEGE – Ms. Newton acknowledged her new puppy came from Pawmetto Lifeline.

Mr. Livingston moved, seconded by Ms. Mackey, to reconsider this item.

Opposed: Malinowski, Pugh, McBride, Livingston, Terracio, J. Walker, Barron, O. Walker, Mackey, English and Newton

The motion for reconsideration failed.

- b. **Conservation Land Purchase** – Ms. Mackey moved, seconded by Ms. Newton, to approve this item.

In Favor: Malinowski, Pugh, McBride, Livingston, Terracio, J. Walker, Barron, O. Walker, Mackey, English and Newton

The vote in favor was unanimous.

Ms. Barron moved, seconded by Mr. J. Walker, to reconsider this item.

Opposed: Malinowski, Pugh, McBride, Livingston, Terracio, J. Walker, Barron, O. Walker, Mackey, English and Newton

The motion for reconsideration failed.

- c. **Vendor Selection – Comprehensive Grant Management Software**

- d. **FY22 – District 2 Hospitality Tax Allocations:**

1. Juneteenth Freedom Festival - \$5,000
2. Richland County Recreation Foundation – Jazz Fest - \$5,000

- e. **FY22 – District 3 Hospitality Tax Allocations:**

1. Columbia Classical Ballet - \$10,000

- f. **FY22 – District 9 Hospitality Tax Allocations:**

1. SC Juneteenth Freedom Festival - \$7,500

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Ms. McBride moved, seconded by Ms. Barron, to approve Items 14 (c) – (f).

In Favor: Malinowski, Pugh, McBride, Livingston, Terracio, Barron, O. Walker, Mackey, English and Newton

Opposed: J. Walker

The vote was in favor.

Ms. McBride moved, seconded by Ms. English, to reconsider Items 14 (c) – (f).

In Favor: J. Walker

Opposed: Malinowski, Pugh, McBride, Livingston, Terracio, Barron, O. Walker, Mackey, English and Newton

The motion for reconsideration failed.

- g. **A Resolution to appoint and commission Jamal Rashawn Clavon as a Code Enforcement Officer for the proper security, general welfare, and convenience of Richland County** – Ms. Mackey moved, seconded by Ms. Barron, to approve this item.

In Favor: Malinowski, Pugh, McBride, Livingston, Terracio, J. Walker, Barron, O. Walker, Mackey, English and Newton

The vote in favor was unanimous.

- h. **A Resolution to appoint and commission Kiall Brenton Wright as a Code Enforcement Officer for the proper security, general welfare, and convenience of Richland County** – Ms. Barron moved, seconded by Mr. Livingston, to approve this item.

In Favor: Malinowski, Pugh, McBride, Livingston, Terracio, J. Walker, Barron, O. Walker, Mackey, English and Newton

The vote in favor was unanimous.

15. **EXECUTIVE SESSION**

Mr. Pugh moved, seconded by Ms. Mackey, to go into Executive Session.

In Favor: Malinowski, Pugh, McBride, Livingston, Terracio, Barron, O. Walker, Mackey, English and Newton

Opposed: J. Walker

The vote was in favor.

*Council went into Executive Session at approximately 7:03 PM
and came out at approximately 7:53 PM*

Mr. J. Walker moved, seconded by Ms. Newton, to come out of Executives Session.

In Favor: Malinowski, Pugh, McBride, Livingston, Terracio, J. Walker, Barron, O. Walker, Mackey, English and Newton

The vote in favor was unanimous.

**Special Called
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a. **Pineview Park Contractual Matter** – No action was taken.

b. **Alvin S. Glenn Detention Center** – No action was taken.

Mr. Malinowski moved, seconded by Ms. Barron, to reconsider Item 6(b) “Land Development Code Re-Write Ordinance.

In Favor: Malinowski, Pugh, Livingston, J. Walker, Barron, O. Walker, English and Newton

Opposed: McBride, Terracio and Mackey

The vote was in favor.

Mr. Malinowski requested Mr. Wright to explain the difference between the motion he made, which was to rescind the November 2021 Land Development Code Ordinance, and the motion Mr. Livingston made to put the November 2021 ordinance into an indefinite hold until other matters get taken care of at the staff level. His understanding is, Mr. Livingston’s keeps the November 2021 code in place until an uncertain date in the future, and individuals have the option to apply for re-zoning under the old code or the new code and wait. Ultimately, according to staff, the new code will be approved. He noted the motion he made is that they can only apply under the old code because we do not know what will happen with the new code.

Mr. Wright stated Mr. Malinowski’s motion was to rescind so that everything goes back to pre-November. With Mr. Livingston’s amendment, leaves the November ordinance in place, but the dates are open-ended. It also allows individuals to either use the pre-November code or file under new code and wait until the new code is approved.

Mr. Malinowski stated either way it takes 3 Readings and a public hearing, as well as 3 Readings and a public hearing to approve the remapping.

Mr. Wright responded in the affirmative.

Mr. Livingston noted his motion would mean you would not necessarily have to do 3 Readings and a public hearing, if Council decides to move forward with a new ordinance. He stated, if you rescind the ordinance, you have to start the process over.

Mr. Malinowski stated the reason he wants to rescind the ordinance is that people may be applying saying they will wait for the new code to pass. We do not know how long it will take for the new code to be approved, or if it will be approved. Therefore, we should allow people to move on with whatever development or re-zoning request they want to do. He noted he does not think the process was done properly, which is why he is saying we should start over.

Mr. Livingston stated he wants his constituents to have the option to consider both.

Ms. McBride noted what Mr. Malinowski wants is covered in Mr. Livingston’s motion.

Mr. Malinowski noted Mr. Livingston’s motion also keeps the language approved in November 2021, which he and others do not feel we should have until it is all hashed out.

Ms. Barron stated she still has some challenges with where we are. She understands we can stop at any point, but she does not think we should delay saying, “Stop! It is not working!” She noted Mr. Price agrees there are some challenges we have experienced.

Ms. Mackey noted Mr. Livingston’s motion give us the ability to do both. She knows we have heard from citizens that are not happy with some of the changes, but she has also heard from some that want the changes.

Ms. English inquired about the timeframe if we start over.

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Mr. Wright responded any amendments and/or repeal will take 3 Readings and a public hearing.

POINT OF ORDER – Mr. Livingston noted this motion may not be properly before us because Mr. Malinowski was not on the prevailing side.

Mr. O. Walker and Mr. Wright concurred.

16. **MOTION PERIOD** – There were no motions submitted.

17. **ADJOURNMENT** – Ms. Newton moved, seconded by Ms. Barron, to adjourn.

In Favor: Pugh, McBride, Livingston, Terracio, J. Walker, Barron, O. Walker, Mackey, English and Newton

Opposed: Malinowski

The vote was in favor.

The meeting adjourned at approximately 8:06 PM.