



Richland County Council  
Special Called  
November 13, 2018 – 6:00 PM  
Council Chambers

COUNCIL MEMBERS PRESENT: Joyce Dickerson, Chair; Bill Malinowski, Vice Chair; Calvin “Chip” Jackson, Norman Jackson, Gwen Kennedy, Paul Livingston, Dalhi Myers, Greg Pearce and Seth Rose

OTHERS PRESENT: Michelle Onley, Beverly Harris, James Hayes, Kim Williams-Roberts, Cathy Rawls, John Thompson, Brandon Madden, Tracy Hegler, Sandra Yudice, Stacey Hamm, Eden Logan, Larry Smith, Dwight Hanna, Tim Nielsen, Nathaniel Miller, Jennifer Wladischkin, Mohammed Al-Tofan, Brad Farrar, Dale Welch, Michael Niemeier, Kecia Lara, Patrick Bresnahan, Tiffany Harrison, Erica Wade, Michelle Rosenthal, Cheryl Cook, Ashley Powell, Liz McDonald, Janet Claggett, Pam Davis, Stephen Staley, Art Braswell, Synithia Williams, Trenia Bowers, Nancy Stone-Collum, Donny Phipps, Melissa Watts, and Ismail Ozbek

1. **CALL TO ORDER** – Ms. Dickerson called the meeting to order at approximately 6:00 PM.

Ms. Dickerson stated that Ms. McBride will not be at tonight’s meeting because she is attended the National Foundation of Women Legislators Conference, and Mr. Rose has resigned due to his recent election to the House.

2. **INVOCATION** – The invocation was led by the Honorable Bill Malinowski

3. **PLEDGE OF ALLEGIANCE** – The Pledge of Allegiance was led by the Honorable Bill Malinowski

4. **APPROVAL OF MINUTES**

- a. **Regular Session: October 16, 2018** – Ms. Kennedy moved, seconded by Mr. N. Jackson, to approve the minutes as distributed.

Mr. Livingston moved, seconded by Ms. Myers, to reconsider Third Reading of the following item:  
“Authorizing the execution and delivery of a fee-in-lieu of ad valorem tax agreement by and between Richland County, South Carolina and Miwon Specialty Chemical USA, Inc. (Project Monopoly) to provide for payment of a fee-in-lieu of taxes; authorizing certain infrastructure credits; the execution and delivery of a purchase and option agreement; the transfer of approximately 15 acres of real property located in Richland County; the granting of an option on an additional approximately 15 acres of adjacent real property; and other related matters”.

In Favor: Malinowski, C. Jackson, Myers, Pearce, Kennedy, Manning, Dickerson, N. Jackson and Livingston

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The vote was in favor of reconsidering Third Reading of the item entitled “Authorizing the execution and delivery of a fee-in-lieu of ad valorem tax agreement by and between Richland County, South Carolina and Miwon Specialty Chemical USA, Inc. (Project Monopoly) to provide for payment of a fee-in-lieu of taxes; authorizing certain infrastructure credits; the execution and delivery of a purchase and option agreement; the transfer of approximately 15 acres of real property located in Richland County; the granting of an option on an additional approximately 15 acres of adjacent real property; and other related matters” was unanimous.

Mr. Livingston moved, seconded by Mr. Malinowski, to table Third Reading of the item entitled “Authorizing the execution and delivery of a fee-in-lieu of ad valorem tax agreement by and between Richland County, South Carolina and Miwon Specialty Chemical USA, Inc. (Project Monopoly) to provide for payment of a fee-in-lieu of taxes; authorizing certain infrastructure credits; the execution and delivery of a purchase and option agreement; the transfer of approximately 15 acres of real property located in Richland County; the granting of an option on an additional approximately 15 acres of adjacent real property; and other related matters” until the December 4<sup>th</sup> Council meeting.

In Favor: Malinowski, C. Jackson, Myers, Pearce, Kennedy, Dickerson, N. Jackson and Livingston

The vote in favor was of tabling Third Reading of the item entitled “Authorizing the execution and delivery of a fee-in-lieu of ad valorem tax agreement by and between Richland County, South Carolina and Miwon Specialty Chemical USA, Inc. (Project Monopoly) to provide for payment of a fee-in-lieu of taxes; authorizing certain infrastructure credits; the execution and delivery of a purchase and option agreement; the transfer of approximately 15 acres of real property located in Richland County; the granting of an option on an additional approximately 15 acres of adjacent real property; and other related matters” was unanimous.

In Favor: Malinowski, C. Jackson, Myers, Pearce, Kennedy, Dickerson, N. Jackson and Livingston

The vote in favor of approving the minutes was unanimous.

5. **ADOPTION OF THE AGENDA** – Mr. Gomeau stated Item 13(b) “Using Public Funds on Private Roads: Hardship Options” needs to be moved from the Consent Items to Other Items as Item 25(g).

Mr. Smith requested to add Pending Litigation: City of Columbia vs. Richland County, which is an in item for information only.

Mr. Pearce requested unanimous consent to add the “Huger Street Property Sales Agreement” to the agenda. Due to the hurricane, the City of Columbia was unable to take up this item, and our agreement is going to run out. The purpose of this item is to authorize another extension of the closing date on that property. The sales contract was entered into several months ago, and the closing has been delayed through the fault of neither party, but due to the land use approval process of another government where the property is located. Since the contract was entered into, numerous extensions have been entered into by the parties to accommodate for the time needed to get approval for the required permits. This extension will allow for the buyer to attempt to get permitting needed from that government to pursue the buyer’s intended use of the property. No other provision of the agreement is affected besides extending the closing date for another 30 days.

In Favor: Malinowski, C. Jackson, Myers, Pearce, Kennedy, Manning, Dickerson, N. Jackson and Livingston

The vote in favor was unanimous.

Mr. Livingston requested the removal of Item 16(b): “Authorizing the expansion of the boundaries of the I-77 Corridor Regional Industrial Park jointly developed with Fairfield County to include certain property located in Richland County; the execution and delivery of an Infrastructure Credit Agreement to provide for infrastructure credits to [Project Zion]; and other related matters”.

In Favor: Malinowski, C. Jackson, Myers, Pearce, Kennedy, Dickerson, N. Jackson and Livingston

The vote in favor was unanimous.

In Favor: Malinowski, C. Jackson, Myers, Pearce, Kennedy, Dickerson, N. Jackson and Livingston

The vote in favor of adopting the agenda, as amended, was unanimous.

## **PRESENTATION OF RESOLUTIONS**

6.

- a. Resolution honoring Olivia McCartney for being named 2018-19 Spring Hill Teacher of the Year and the 2018 American Legion Dept. SC Teacher of the Year – Mr. Malinowski presented a resolution to Ms. McCartney in honor her being awarded the 2019 Spring Hill Teacher of the Year and the 2018 American Legion Dept. SC Teacher of the Year

**POINT OF PERSONAL PRIVILEGE** – Ms. Dickerson recognized that the Councilmembers-elect were in the audience.

- b. Resolution honoring Joe Pinner aka “Mr. Knozit” on his retirement from WIS-TV – Ms. Dickerson and Ms. Kennedy presented Mr. Pinner a resolution in honor of his retirement from WIS-TV.

7.

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

- a. Pending Litigation: PDT Update
- b. City of Columbia vs. Richland County
- c. Huger Street Property
- d. DHEC Notice of Enforcement Conference Update Proposed Consent Order Broad River WWTF
- e. Township Property Update
- f. City of Columbia requests to survey County-owned property
- g. Contractual Matter: Storage of Council Records
- h. Program Development Team Contract
- i. Approval for staff to write and send a letter to the City of Columbia requesting a commitment to share half of the construction costs for the facilities at the Three Rivers Greenway, which the Department of Revenue’s guidelines prohibit the use of Transportation Penny funds for such construction. The facilities include two bathrooms; park ranger station; fire department building; and the parking lot, driveway and gate. The total construction cost is \$850,257; therefore, the County is requesting \$425,128.50 from the City
- j. Update on Paso Fino Property divestiture
- k. Report on Potential Northwest Recycling Center Property

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I. Inquiry from party interested in purchase of Sears and/or Dillard's property

Huger Street Property – Mr. Smith stated the purchaser is requesting an extension of the contract for another 30 days. It is his understanding, the reason for the request is because the City of Columbia has not acted on the purchaser's request. We are requesting to give them an extension of another 30 days, and then authorize the Administrator to execute the extension.

In Favor: Malinowski, C. Jackson, Myers, Pearce, Kennedy, Dickerson, N. Jackson and Livingston

The vote in favor was unanimous.

Mr. Manning requested additional information on Item 9(c): "City of Columbia requests to survey County-owned property", and why it qualifies for Executive Session.

Mr. Smith stated that relates to a matter that we discussed at the last meeting, which is contractual and a potential litigation matter.

8. **CITIZENS' INPUT: For Items on the Agenda Not Requiring a Public Hearing** – Mr. N. Jackson moved, seconded by Mr. Malinowski, to waive the rules and allow the citizen to speak.

In Favor: Malinowski, C. Jackson, Myers, Kennedy, Manning, Dickerson, N. Jackson and Livingston

The vote in favor was unanimous.

Mr. Steve Hinson spoke in opposition of the sale of the Huger Street Property.

Mr. Malinowski stated Mr. Hinson indicated there were other buyers for this property. Mr. Hinson may want to get with staff, prior to another vote, to discuss this in more detail.

**POINT OF PERSONAL PRIVILEGE** – Ms. Dickerson introduced the Interim County Administrator Edward Gomeau.

9. **REPORT OF THE INTERIM COUNTY ADMINISTRATOR**

- a. Potential COMET IGA Amendment – Mr. Gomeau stated staff is reviewing the IGA to provide Council information, so when you meet with the Board you will have information pertaining to the funding issue that was raised, in terms of the use of certain monies to pay particular claims.

Ms. Myers stated there are no backup documents for this particular item, so if Mr. Gomeau could provide a sentence or 2 about which IGA he is talking about, and what we are doing.

Mr. Gomeau stated this item is in reference to the COMET IGA. There was a payment made to an employee, for a claim. It was the use of the funds that came into question.

- b. Request from the Town of Eastover to assist with removal of construction and demolition debris – Mr. Gomeau stated he and Dr. Yudice met with Mayor Robinson from Eastover. She came in to introduce herself, and informed them that she had a problem with unauthorized dumping of various kinds of waste on a piece of town property. She requested the County to take a look at it, and see if we had any

recommendations or anyway we could assist her. The Public Works Department is going out to take a look to see if there is way to help, or at least make recommendations to move that pile. Once that is done, the town will secure the area a lot better.

Ms. Myers stated she appreciates Mr. Gomeau and Dr. Yudice for trying to help with the problem.

Mr. Gomeau thanked Council for their confidence he allowing him to serve as the Interim County Administrator.

10. **REPORT OF THE CLERK OF COUNCIL**

- a. Charter Nex Film Ribbon Cutting, November 15, 2:00 PM, Carolina Pines Industrial Park, 10771 Farrow Road – Ms. Roberts reminded Council of the upcoming Charter Nex Film Ribbon Cutting
- b. REMINDER: Committee Meetings and Zoning Public Hearing – November 15 – Ms. Robert reminded Council members of the committee meeting and Zoning Public Hearing will be held on November 15<sup>th</sup> due to the holidays.
- c. Contractual Matter: Storage of Council Records – This item was taken up in Executive Session.

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

12. **OPEN/CLOSE PUBLIC HEARINGS**

- a. An Ordinance authorizing deed to the City of Columbia water lines for Richland Library Northeast, 7490 Parklane Road; Richland County TMS # 17707-08-01 (Portion), CF #340-15 – No one signed up to speak.

13. **APPROVAL OF CONSENT ITEMS**

- a. An Ordinance authorizing deed to the City of Columbia water lines for Richland Library Northeast, 7490 Parklane Road; Richland County TMS # 17707-08-01 (Portion); CF # 340-15 [THIRD READING]
- b. Water Feasibility Study
- c. Council Motion: Requesting Palmetto Health and Providence to proceed with their proposals to build a free standing emergency room facility to include an ER and outpatient care, pharmacy, clinic, and other preventative healthcare services
- d. Council Motion: HA5 asphalt sealant to increase the life of all roads new and existing
- e. Council Motion: Funding the Senior programs should be distributed equally and fairly. It is not right for one organization to be receiving hundreds of thousands of dollars annually while other areas receive none. All areas pay taxes and all seniors should get the same and equal opportunity in receiving funding. I move that funding for seniors (Senior Activities) be distributed equally in all eleven districts

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- f. County Council is requested to provide guidance to the staff on the paving/construction of Willow Wind Road
- g. Richland County Coroner's Request for Generator
- h. Approve to award Emergency Services Department open purchase orders for supplies and services needed for the operations of the Emergency Services Department. Funds are available in the FY 2018-2019 budget. No additional funds are needed.
- i. Sheriff's Purchase of Mobile Data Terminals (MDTs) and In-Car Cameras

Mr. Pearce moved to approve the consent items.

In Favor: Malinowski, C. Jackson, Pearce, Kennedy, Dickerson, N. Jackson and Livingston

The vote in favor was unanimous.

14. **SECOND READING ITEMS**

- a. An Ordinance Amending the Fiscal Year 2018-2019 School District #1 of Richland County Annual Budget to increase it by \$3,584,725 – Mr. Pearce moved, seconded by Mr. Manning, to approve this item.

Mr. Malinowski stated he received an informational piece from the school district. One of the items mentioned in there was something to do with remedial programs. He requested a definition of what they mean by remedial. To him, it means a student has gone through a particular class, was unsuccessful, did not pass, and now they have to go back and take it again.

Mr. Carlon stated remedial may mean afterschool or summer school. It is required by the State to offer afterschool remedial programs or summer school for anything they could not complete during the school year.

Mr. Malinowski stated, so we are spending \$2 million of taxpayer funding to give someone a second chance that they should have paid attention and done the first time. And, this is State mandated, as were many of these items, that you put before us as to why you needed additional funding (i.e. State and Federal cuts). His opinion is, the County is not here to make whole any group because of State or Federal funding cuts. He inquired if they had gone back to the State or Federal government for these additional funds.

Mr. Carlon stated they have requested funds, but that is not specific to that particular item. He stated the \$2 million is not for that one particular item.

Mr. Malinowski stated it says the remediation budget is \$2+ million budget.

Mr. Carlon stated they are not requesting the whole \$2+ million, out of the \$3.5 million, for that particular item. They have some of the funds, but they do not have all of the funds.

Mr. Malinowski inquired what the total budget for Richland District I.

Mr. Carlon stated \$320 million is the total budget for the school district.

Mr. Malinowski stated he finds it hard to believe that Greenville gets by on less than that, and has double the students and employees. He does not believe the County should be the go to for every time somebody gets their State or Federal funds cut.

Mr. N. Jackson stated he thinks this is due to a note from the Auditor when they were doing the assessment.

Mr. Carlon stated the original request was for the cap, plus the look back, which was approved in June. The Auditor brought that forward to you on October 2<sup>nd</sup>.

Mr. N. Jackson stated he would fight for "Leave No Child Behind", at whatever cost, because it costs us later on the other side.

Mr. C. Jackson stated the appropriate debate and discussion time was during the budget process. When he raised some questions about the increase that was being requested by the school districts, had conversations with them, and they offered their explanation for that, it was clear then that it was going to be as a result of going to the max millage. If he is not mistaken, if not unanimous, then everyone except one person up here, voted in favor of that for both Richland One and Two. Now as a result of approving that max millage, and then recognizing they generated more revenue than they projected, they are now coming and asking for what we approved them to receive, when we approved their budget in that parameter. One of the issues, you may recall, is we had a debate, and discussion, where we involved our Finance Director, trying to come up with a strategy so we would not run into this sort of snafu when the numbers were adjusted. We voted that down, or tabled it. So, now we are here today, but this conversation began when the budgets were initially submitted by Richland One and Two, with the request to get the max millage, as well as the opportunity for Richland One to do a look back. State law allows them to go back up to 3 years, and request the difference between what they could requested and what they actually got.

Ms. Dickerson inquired if we voted to take them to the max of the millage.

Mr. C. Jackson responded in the affirmative.

Ms. Dickerson stated that changes her thought process, if we voted to take them to the maximum millage, and what they submitted was \$3,584,000 under the maximum millage.

Mr. Carlon and Mr. Pearce responded in the affirmative.

Ms. Dickerson stated, if that is what she supported then, she would remiss if she told you to get the max, and we found out the max had a deficit \$3 million.

Mr. Carlon stated, when they submitted the budget, they requested the max on the cap and the look back.

Ms. Dickerson stated, for clarification, they did not have the budget items listed in there.

Mr. Carlon stated, not these items. They did have more than what was approved dollar wise. After they

submitted the budget, and they went through the summer programs, which are required by the State going forward, they know they will be short next year.

Ms. Myers stated she supports education 1,000%, and when she asks these series of questions, somebody is going to go away and say, "Ms. Myers does not want to support the schools." That is flatly untrue, but she is clear about where this money is coming from. It is directly tied to the tax on people's homes, so when we set these numbers, our requirements, under our ordinance, is that we approve a budget. Not a millage cap, but a budget from every agency that gets funded by this Council.

Mr. Hayes stated, in June/July, you typically pass the budget. In October, once the numbers are final, the County Auditor provides you the millage number, which you voted on October 2<sup>nd</sup>. Typically, what happens in the Fall, you get higher mill values. So, what is happening, in this case, the school district is having the higher millage rate, coupled with the higher mill value, which is producing a \$3.5 million increase.

Ms. Myers stated, it is not a deficit, Madam Chair. It is essentially a spread. We give you a number that we think the millage is going to be, and everybody submits us a budget, based on that number. Where we are today, every agency that gets money from us, looks at what the millage was when we did the budgeting, and where we are today, which is what the actual is, so there is a spread. It is not that they were underfunded, based on the budget, but the millage number is different than what we estimated, so there is the potential for more money on the table. What we are doing now is saying we would like to have the increased amount of money, based on what is actually there, and we could use it for these 15 programs. She wants the record to clearly reflect that this Council did not underfund the schools. We gave the schools what they asked for. Everybody lived by that millage number. Nobody got a different number. Her concern is, similar to Mr. Malinowski's, the way we get this money is turn people's purses upside down and we take it from them. We are required to budget, as a Council, to budget based on what people tell us they need to do, what it is before them that we have asked them to do. Basically what we are saying is, "No, we do not have to put together a budget." She said back in the Summer, "We just want the number. You tell us what the magic number is on that millage, and we will take all that we can get." That defeats the purpose of a budget process. She is concerned that this puts us on the same slippery slope that she asked about last year. She is for funding the schools. If they came in and said they needed this money in the Summer, she would have voted for it in the Summer. She is concerned that every agency, not just the schools, could now come back and do this. Rather than budgeting new priorities, there are things in the County that are emergent, we basically will be stuck. The Library asked to be budgeted to the cap, and their cap would be different. It is not just the schools that this impacts. What she is asking is, if these projections are wrong every year...

Mr. Hayes stated, what typically happens is, in the Summertime you have the millage rate, but the mill value comes in higher because you have final numbers the Assessor give you, and you get numbers from the Department of Revenue, so the mill value shifts higher in the Fall, but the budget is already set.

Ms. Myers stated this is not her being against funding the schools, but she is concerned about how we conduct the budget process, and the other things that could be done with this so-called spread. At some point, there could be a rebate. She stated there are things that could be done, other than this. What she is asking is, where we are making the mistake. If this happening consistently, what can we do better, so that everyone that is budgeting gets a clearer number to budget with, and there is some intrinsic value in the 3 months we spent in getting the budget right. Otherwise, there is no real value in it. If what we are doing is giving everybody money to the cap, what is the point of us spending hours in these



workshops.

Mr. Hayes stated, he does not want to speak for the County Auditor, but because higher values typically do not come to the Fall, but the fiscal year starts July 1. Other than trying to estimate out what you anticipate that new value to be, there is nothing you could do different.

Ms. Myers requested, at the Retreat, to have a discussion about what the ordinance requires us to do, the difference between approving budgets, and approving millage caps.

Ms. Dickerson stated she is very concerned about this. She does not want anyone to think she is against what the schools are trying to achieve, but she thinks when they hire responsible people to prepare a budget, that they should be mindful of how they do that budget, and the budget they give us should be what they estimate the cost to operate. If we add these \$3 million to this budget, what affect will this have on the taxpayers.

Mr. Hayes stated you already voted on that on October 2<sup>nd</sup>, so it is already on the tax bill.

Ms. Dickerson inquired if that \$3 million is on there.

Mr. Hayes stated the millage rate that would generate the \$3 million went out on the tax bill. Essentially, what School District One is requesting is to amend their budget. The money, if the taxpayers pay, will come in, but they will get the funding next year. It will be additional revenue taken in that will not be expended by the school district, if this body decides not to amend their budget.

Mr. Malinowski stated Council's job is to protect the taxpayers. If this does not go to the school district, it would stay in the General Fund for other uses.

Mr. Hayes stated the funds would go to the school district.

Mr. Malinowski stated, if we do this every year, as it looks like some people want us to do, then we might as well eliminate the budget process, and just give them all the money in November. Don't worry about a budget, whether they need it or not because they, and others, will just say they want all of it. He stated it is easy to come up with reasons for why you need it, whether or not you truly do.

In Favor: C. Jackson, Myers, Pearce, Kennedy, Manning, Dickerson, N. Jackson and Livingston

Opposed: Malinowski

The vote was in favor.

POINT OF PERSONAL PRIVILEGE – Mr. Manning stated he really appreciated Mr. Malinowski recognizing Olivia McCartney, the American Legion Teacher of the Year, as a Special Education Teacher. She would be so involved in understanding adverse childhood experiences and works everyday with those young people that require remedial services from the district.

- b. Authorizing the execution and delivery of a fee-in-lieu of ad valorem taxes agreement by and between Richland County, South Carolina and Spirax Sarco, Inc. to provide for payment of fee-in-lieu of taxes; and other related matters – Mr. Livingston moved, seconded by Ms. Myers, to approve this item.

In Favor: Malinowski, C. Jackson, Myers, Pearce, Kennedy, Dickerson, N. Jackson and Livingston

The vote in favor was unanimous.

- c. Authorizing the execution and delivery of a fee-in-lieu of ad valorem taxes agreement by and between Richland County, South Carolina and Project K3 to provide for payment of a fee-in-lieu of taxes; and other related matters – Mr. Livingston moved, seconded by Mr. Pearce, to approve this item.

In Favor: Malinowski, C. Jackson, Myers, Pearce, Kennedy, Dickerson, N. Jackson and Livingston

The vote in favor was unanimous.

- d. An Ordinance Authorizing the third amendment of that certain fee agreement by and between Richland County, South Carolina and Project K3, relating to, without limitation, the payment to Richland County of a fee in lieu of taxes, and other matters relating thereto – Mr. Livingston moved, seconded by Ms. Myers, to approve this item.

In Favor: Malinowski, C. Jackson, Myers, Pearce, Kennedy, Dickerson, N. Jackson and Livingston

The vote in favor was unanimous.

15. **REPORT OF THE ADMINISTRATION AND FINANCE COMMITTEE**

- a. Private Pond Outfall Silt Removal Standard Operating Procedure – Mr. Malinowski stated, when we have changes and new policy taking place, we get a copy of the old version that shows us what is been stricken from that, and what is being added in a red-lined version. We have not been provided that. All we have been given is the new version, so he does not know how Council can have any questions or compare the new to old. He would like to see a red-lined version at the next meeting.

Mr. Malinowski moved to defer this item until the next Council meeting. The motion died for lack of a second.

In Favor: C. Jackson, Myers, Pearce, Kennedy, Dickerson, N. Jackson and Livingston

Opposed: Malinowski

The vote in favor of approving this item was unanimous.

- b. Freedom of Information Act Policy Revision – Mr. Malinowski stated he asked a question in committee, and did not get an answer, under the FOIA Requests, the 1<sup>st</sup> bullet point, it says, "This right does not extend to individuals serving a sentence of imprisonment in a state or county correctional facility." His question was, if he is in prison does he still pay my taxes on my property? Do I still pay my income taxes? If he is required to follow all the other legal rules, he does not understand, unless this is coming from the State or Federal government, why Richland County refuses to let someone make a FOIA request just because they are incarcerated.

Mr. Manning stated, for clarification, he does not matter if they pay income tax or not because that does

not come to the County. He would prefer the question to be, do they pay Richland County property taxes

Mr. Smith stated the changes you see reflected in here, specifically that item, came from the Legislature; the Freedom of Information Act and the State statute. That particular language was added by them. We are making changes to our process, based on what came down from State law.

Mr. Malinowski stated this is being forced upon us.

Mr. Manning inquired, for clarification, if that was a law that says that we have to change our Freedom of Information or that is a change they made and we chose to parallel it.

Mr. Smith stated that was a change that they made, and we are adopting that language as a part of our process because that is what State law requires us to do, in order for us to be in compliance with State law.

Mr. Manning stated, for clarification, so paralleling is a requirement to be in compliance.

Mr. Smith responded in the affirmative. We are taking State law, which tells us how the Freedom of Information Act is to be applied, what the standards are, and we are taking that information and changing our process, to comply with State law.

Mr. N. Jackson stated, for clarification, what they are saying is we have no choice. If we do not have a choice, is it necessary to adopt it, or just give notice that we have to abide by State law.

Mr. Smith stated what this says is, the State of South Carolina has extended the right to any citizen of the State to inspect public records, but that right does not extend, according to the Legislature, to individuals who are serving a sentence of imprisonment, if they have been convicted.

Mr. N. Jackson stated, what we have before us, we have no choice, that is State law. He stated we do not necessarily have to adopt it. It could be for information only.

Mr. Smith stated his recommendation would be to adopt it; otherwise we would be in a situation where we would be getting requests from individuals who are incarcerated, State law says this right does not extend to them, and then we would have to respond, and potentially process those requests. He stated that would be a burden, and an expense to the County.

Mr. Malinowski and Mr. Manning stated they concur with Mr. N. Jackson.

Mr. Malinowski stated on p. 258 of the agenda it says, "The committee recommended Council approve the revised FOIA policy and procedures, with the clarification to Sec. IV(ii) regarding holidays and the inclusion of language to cover natural disasters/storms notated by Mr. Malinowski." He stated he does not see any changes in here, so if we approve what is front of us that was not changed. If a storm comes through and the County is closed for 3 days, plus the weekend, we take a chance we are not going to be able to respond in time to the FOIA, which is why he requested that particular change.

Mr. Smith stated, again, this language is language that came from the State defining the time period in which the County had to respond to a requestor. He stated, if you take a look at Sec. IV(ii), it says the

County has 10 working days.

Mr. Malinowski stated, if we have to follow it, because the State is mandating it, that is all he needs to know. He inquired if the State has mandated that we not charge anybody to produce records that are \$20 or less. As he said before, if you got 1,000 requests, at \$20, you are looking at \$20,000. He does not see why we are giving that way. If you make the request, and you want information, you should be willing to pay.

Mr. Smith stated the fee schedule was the portion that was a discretionary decision.

Mr. Malinowski inquired, if it is costing the taxpayers to do this, why are we giving it away for free.

Mr. Madden stated the \$20 fee was essentially a baseline. When we receive a request, it would typically cost a staffer more than \$20. For things that are less than \$20, it is really nominal for staff. At that point, if it is less than \$20, it would just be easier to provide the information, and not charge a fee.

Mr. Livingston stated he agrees with incorporating language consistent with State law into the County ordinances and documents, whether he agrees with that State law or not.

Mr. Manning stated, back to the right does not extend to individuals serving a sentence of imprisonment in a State or County correctional facility. He stated we have a County Detention Center, right? He stated, for clarification, people are not sentenced there as the County correctional institution. He inquired if that is true.

Mr. Smith stated he could not speak for all of the activity that goes there. The Alvin S. Glenn Detention Center is supposed to be a pre-trial detention center. He cannot say, however, that there are not individuals who are there, who may have been convicted of an offense, that are awaiting transfer somewhere else. He can say that is not the purpose of Alvin S. Glenn.

Mr. Manning stated the wisdom of this language becomes a little confusing because we really do not have a County correctional facility. We have a detention center.

Mr. Smith stated we have a detention center, and if that person is a pre-trial detainee, this language would not apply to them. However, if this person happens to be in a pre-trial detention center, and have been convicted, and sentenced, then the language would apply.

Ms. Myers stated she has a question as to the mandatory nature of the language regarding FOIA request not being extended to convicted felons. She stated, her personal opinion is, this is another way to continue to disenfranchise people who are incarcerated. She inquired, if Mr. Smith is suggesting the FOIA language here, which is a derivative of the State statute, if there is something additionally in the State statute that makes this mandatory. She stated people can be detained in State and County prisons and still be taxpayers in Richland County if they own property, or if they own automobiles, and they are still required to pay their County bills. We do not give them a tax holiday. There are some rights that we are further stripping away from them as incarcerated persons. She would like to know where the authority is for this being mandatory, rather than the State deciding for their FOIA requests this does not extend to detainees who have been convicted.

Mr. Smith stated he will attempt to get Ms. Myers an answer.

Mr. Pearce stated we address these State mandates all the time. We sit up and we grumble about it, and we ask questions about it. Only, at the end, conclude there is nothing we can do about it. We pay a lot of money for lobbyists down there. He would recommend on occasions, such as this, that we collectively go back to the Legislature and ask why they are doing this. He thinks we need to go on the offensive a little bit more. He suggested using the lobbyists to let them know we do not like the wording.

Ms. Dickerson inquired if he would like to defer this item.

Mr. Pearce stated he would not mind having the Council members submit their concerns, draft a document, get the lobbyists involved, to let them know we do not like this.

Mr. Pearce moved, seconded by Mr. Manning, to defer this item.

Mr. N. Jackson stated, what if Council voted against this? What happens then?

Mr. Smith stated the Freedom of Information Act applies to all public bodies. If this Council decided to vote against it, and not carry out the act, then there could be certain consequences, as it relates to requestors that make requests under the Freedom of Information Act. If you are talking about specifically that section that deals with those people who have been convicted and incarcerated, he is not sure what the State would do if we decided to provide the information to those individuals.

Mr. N. Jackson stated that is why he asked from the beginning was it a notice of what the State is doing, rather than us voting on something we may disagree or agree with. He stated you are telling me to vote on something, and he has to vote yes because of State law. He has some concern about voting for something that he disagrees with.

Mr. Manning stated why he supports deferring this to our next meeting is, he tried to originally ask the question, as to whether this is a State mandate or what the State is doing and we are following suit. Then we went around and around. He thought Ms. Myers asked more prolifically, and the answer was that the attorney was going to check to see which it was.

Ms. Myers stated she was building on Mr. Manning's question. When Mr. Smith said the answer was yes, her question was what is the source of authority for the yes, because it does not appear here. And, is there additional language, that we do not have, that would give all of us comfort in understanding why it is mandatory, instead of permissive language.

Mr. Manning stated, if that is where we left it, then it does seem we need to defer it until Mr. Smith brings that answer back.

Mr. Gomeau stated normally under changes in statute, or new legislation, the State staff has a history of how it got to that point. He is sure the County Attorney's office can get that information and show you why they did, and the reason behind it was.

Mr. Manning stated, before we ask our lobbyists to go down there and fight on our behalf, we need to get this answer and figure out how we proceed.

Mr. C. Jackson stated the issue of being sure that we are compliant with State statute and State law, when we have to, and not when we are not required to, is bigger than this isolated conversation that we are having tonight regarding this. He stated we should look at this more holistically, with regard to any

State statute, whether it be the number of holidays, etc. Are all of those in compliance, and if not, what is the process for which we determine those that we are required to follow versus those that we adhere to according to our own County policies.

In Favor: Malinowski, C. Jackson, Myers, Pearce, Kennedy, Manning, Dickerson, N. Jackson and Livingston

The vote in favor was unanimous.

Ms. Dickerson suggested bringing this back at the Council Retreat.

Mr. C. Jackson suggested we have a broader conversation and discussion that he mentioned, as opposed to the isolated case regarding incarceration.

Mr. Pearce stated, if you will keep in mind what has happened to us in the past. If you recall, when there was some concern about us not paying certain legal fees, that a proviso ended up in the budget that said, if we do not comply with State law they would withhold the money from our Local Government Fund. They do have a vehicle down there for dealing with noncompliance with State statutes.

- c. The Richland Program Development Team (PDT) requests a wage rate increase for Calendar Year (CY) 2018 and retroactive payment for wage rate increases for CYs 2016 and 2017 – Mr. Livingston stated, per staff's recommendation, he would like to move to defer this item until the December 4<sup>th</sup> Council meeting.

In Favor: Malinowski, Myers, Pearce, Kennedy, Dickerson, N. Jackson and Livingston

The vote in favor was unanimous.

- d. Use of existing capital bond proceeds for fund architectural, engineering and design studies and to purchase equipment for the County's GIS (geographic information systems) program – Mr. Livingston stated there is a resolution that was distributed that goes with this item. On pp. 417 – 418 of the agenda, you will find the information that is incorporated in that resolution. (i.e. GIS, Lower Richland Sewer Plan, etc.)

Mr. Livingston moved to approve this item, with the inclusion of the resolution provided by staff.

Mr. Smith stated the items that Mr. Livingston is referring to are the same items listed on pp. 417 – 418, but they have been put in resolution form.

Ms. Dickerson stated she has not had an opportunity to review the resolution line by line.

Mr. Livingston moved, seconded by Mr. Malinowski, to defer this item to the December 4<sup>th</sup> meeting.

In Favor: Malinowski, C. Jackson, Myers, Pearce, Kennedy, Dickerson, N. Jackson and Livingston

The vote in favor was unanimous.

- e. Program Development Team Contract – This item was taken up in Executive Session.

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

- a. 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 Blythewood] to provide for payment of a fee-in-lieu of taxes; authorizing certain infrastructure credits; and other related matters [FIRST READING] – Mr. Livingston stated the committee recommended approval of this item.

In Favor: Malinowski, C. Jackson, Myers, Pearce, Kennedy, Dickerson, N. Jackson, and Livingston

The vote in favor was unanimous.

- b. Authorizing the expansion of the boundaries of the I-77 Corridor Regional Industrial Park jointly developed with Fairfield County to include certain property located in Richland County; the execution and delivery of an Infrastructure Credit Agreement to provide for infrastructure credits to [Project Zion]; and other related matters [FIRST READING BY TITLE ONLY] – This item was removed from the agenda during the Adoption of the Agenda.

17. **REPORT OF RULES AND APPOINTMENTS COMMITTEE**

18. **NOTIFICATION OF APPOINTMENTS**

- a. Lexington Richland Alcohol and Drug Abuse Council – 3 – Mr. Malinowski stated the committee recommended to appoint Ms. Theresa Pinckney Chandler and to take up the remaining appointments individually.

In Favor: Malinowski, C. Jackson, Myers, Pearce, Kennedy, Manning, Dickerson, N. Jackson and Livingston

The vote in favor of appointing Ms. Theresa Pinckney Chandler was unanimous.

Mr. Pearce stated he is the liaison to LRADAC, and he would like to point out that applicants Joshua Douglas Fabel and John Jacob Loveday are both incumbents. They have served one term, have been faithful in attendance, and they actively participate. They are both eligible for another term.

Mr. Manning moved, seconded by Mr. N. Jackson, to re-appoint Mr. Joshua Douglas Fabel and Mr. John Jacob Loveday.

In Favor: Malinowski, C. Jackson, Myers, Pearce, Kennedy, Manning, Dickerson, N. Jackson and Livingston

The vote in favor of re-appointing Mr. Joshua Douglas Fabel and Mr. John Jacob Loveday was unanimous.

19. **ITEMS FOR ACTION FROM RULES AND APPOINTMENTS**

- a. We move that the 2<sup>nd</sup> Citizens' Input (Must Pertain to Richland County Matters Not on the Agenda) to be included with the 1<sup>st</sup> Citizens' Input section nearer to the beginning of the Richland County Council Regular Session meeting agendas [C. JACKSON and MANNING] – Mr. Malinowski stated the committee recommended to move the 2<sup>nd</sup> Citizens' Input (Must Pertain to Richland County Matters Not on the Agenda) to immediately following the 1<sup>st</sup> Citizens' Input (For Items on the Agenda Not Requiring a Public Hearing). The amended language is located in the agenda packet on pp. 472-475.

Mr. Livingston stated the gist of it is, the committee recommends that someone can speak to an item, not on the agenda, at the beginning of the meeting.

Mr. Livingston made a substitute motion, seconded by Ms. Dickerson, to not amend the rules.

Mr. Malinowski stated the reason the committee, and the makers of the motion, put this in there is because each one of these items has a time limit. It is limited to 30 minutes' maximum; therefore, it does not matter how many people sign up, so it would not prolong our meetings. He stated it was felt that sometimes we have a lengthy meeting and the citizen(s) have to wait around for 2 – 3 hours to speak for 2 minutes.

Mr. Livingston stated Council has used that approach in the past, and it has been most frustrating. He thinks it is totally unfair to someone who comes for a meeting, and rather than focus on the agenda items the Council members are going to have to listen, for up to 30 minutes, for someone to complain about anything they want to talk about, that is going to interrupt our meeting before we get the meeting started. There is a reason why this Council went to making sure someone was afforded an opportunity to speak to anything they want to, but if it not an item on the agenda, and we are not taking any on, you speak to that item at the end of the meeting. He would strongly urge Council to consider leaving it that way. Therefore, we can handle the business of the Council first. He stated you have no idea what is going to come up during that particular time.

Mr. N. Jackson stated on the front end, or on the back end, it is still 30 minutes' maximum each. His concern is that he does not see any item, by any citizen, that has been interruptive. He stated they have a right to speak. We are here to listen. To say it may be interruptive, and they should wait. Sometimes we have been here until after midnight, and people are sitting in the audience waiting to say a few words because of their concern, as citizens. He thinks in serving the citizens we should make it as comfortable as possible.

Mr. Livingston stated, for clarification, are we talking about 30 minutes or an hour.

Mr. N. Jackson stated it could potentially be an hour.

Mr. Livingston stated he thinks it is unfair for someone that came for a set agenda item, that we are going to take action on, and they have to sit here and listen anything that pops up for up to an hour.

In Favor: Malinowski, Pearce, Dickerson and Livingston

Opposed: C. Jackson, Myers, Kennedy, Manning and N. Jackson



The substitute motion failed.

In Favor: C. Jackson, Myers, Kennedy, Manning and N. Jackson

Opposed: Malinowski, Pearce, Dickerson and Livingston

The vote was in favor of amending the rules regarding Citizens' Input.

- b. Move that the Rules & Appointments Committee review the current Richland County Council Rules and offer amendments for consideration by Council that would clarify exactly how County Council voting will occur with specific reference to how a non-vote (i.e. not a "yes", "no" or "abstain" vote) from a member present at the meeting shall be counted or not counted [PEARCE] – Mr. Malinowski stated the committee recommended adding the following language: "In the case of a tie vote, the prevailing side is the side that voted against approval of the matter voted upon (e.g., if the matter before Council is a vote to continue an item until the next meeting, and the vote on that question is 5-5, the motion did not pass, the item is not continued and the side prevailing as to the motion is the side that voted not to have continued the item)." In addition, from the discussion that took place, it was recommended in the minutes, provided by the Clerk's Office, that in addition to the "In Favor" and "Opposed" votes listed another notation be included that states "Present but Not Voting". Also, on p. 476 of the agenda, "The Chair" section was crossed out, so the committee wanted to insure with the vote we are not deleting anything that is needed.

Mr. Farrar stated that was erroneously crossed out in the backup documentation.

Mr. Manning stated we get frustrated when we get handed stuff to read and vote on, and maybe it did not make it down to him, but he does not have anything to read about new language being recommended, in addition to what was in the agenda packet.

Mr. Malinowski stated there was nothing handed out. He was asked to put that in there. We can take that part out and bring it back at the next meeting.

Mr. Pearce requested Mr. Malinowski to restate the motion.

Mr. Malinowski stated the committee recommendation is to approve the following language: "In the case of a tie vote, the prevailing side is the side that voted against approval of the matter voted upon (e.g., if the matter before Council is a vote to continue an item until the next meeting, and the vote on that question is 5-5, the motion did not pass, the item is not continued and the side prevailing as to the motion is the side that voted not to have continued the item).

In Favor: Malinowski, C. Jackson, Myers, Pearce, Kennedy, Manning, Dickerson, N. Jackson and Livingston

The vote in favor was unanimous.

Mr. C. Jackson inquired as to when these items they just voted on will go into effect.

Ms. Dickerson stated they would go into effect once the minutes have been approved.

Mr. Pearce moved, seconded by Mr. N. Jackson, to reconsider the Items for Action from the Rules and Appointments Committee.

Opposed: Malinowski, C. Jackson, Myers, Pearce, Kennedy, Manning, Dickerson, N. Jackson and Livingston

The motion for reconsideration failed.

Mr. Manning stated, for clarification, it sounded like there was some sidebar discussion about something else was going to go back to the committee that they talked about that was not a part of a motion. He inquired if that would go to the committee based on a motion, and through that whole process, or will they just bubble up stuff they want to talk about in committee.

Ms. Dickerson stated she did not quite understand Mr. Manning's question.

Mr. Manning stated, generally, when a committee does its work, it is based on a motion assigned there from the Chair. He stated it sounds like there is no motion for what they were going to have discussion, and bring back at the next meeting.

Ms. Dickerson stated she thinks when this came it was sent to Rules and Appointment because there were some concerns about abstention and being present and not voting. The committee vetted it, and that is what they are bringing back to us. There seems to be a lot of discussion on that. Then the question was asked as to when this would go into effect, and she responded that it would be after the approval of the minutes, at the next meeting. As you know, if we vote on something and there is a motion to reconsider that item, and the motion fails we can do it.

Mr. Malinowski stated, if he understands, what Councilman Manning is asking is the 2<sup>nd</sup> portion, that during discussion, the committee came up with a recommendation to add a new column be added that said "Present but Not Voting". That part was taken out of the recommendation because there was no written information here. Mr. Manning is asking if we need a motion to get this into the committee to act on that particular matter. The original motion was about voting, and this is another side item that came up to address that motion. The committee will present the backup documentation for the item at the next meeting.

Ms. Dickerson requested Mr. Manning to tell her one more time what he wants her to address, so she can clearly try to address it.

Mr. Manning stated, as he read the motion that went to the committee, it was related to addressing tie votes when there is a non-vote or an absentee vote. What came back from the committee was addressing a tie vote when there is no vote or absentee vote, and that was the motion brought before us. Then, there was a little extra thrown in that we did not have anything given to us, because there was not anything at the committee because that did not seem to be a part of what the motion was. So, his question was does there need to be a motion sent to the committee to address, what they were addressing, because he has a different view of the reading, and contention, about what the motion was that went there. He felt like the motion that went there is exactly what they addressed, brought to us tonight, and we voted on.

Mr. N. Jackson stated the motion exists. The motion was discussed previously, but it is still on the

agenda in committee. There was a discussion about voting, abstaining and what to do about it. In this motion, that was discussed, an additional discussion took place, and it was recommended to add an existing motion, coupled with the recommendation we had with this motion, but it was not on the agenda. He stated Mr. Manning's question is does a motion need to be made. He stated a motion does not have to be made because we already have a motion existing in committee that we can address at a later meeting.

Mr. Smith stated, it sounds like to him, the motion that you were dealing with had to do with a situation where someone, who is present abstains from voting, and a tie vote. The other portion of this seems to be something that came up about creating a column for recording those situations where someone abstains from voting. It sounds like to him, the committee was dealing with how you execute that, and where you record a situation where someone was present, but for whatever reason, they abstained from voting. To the extent that the motion dealt with how you deal with tie votes, or how you deal with someone who abstains from voting, it sound like the committee was dealing with how you actually record that when it happens.

Mr. Livingston stated, so we can move on, can someone simply present a motion and send it back to committee.

20. **REPORT OF THE OFFICE OF SMALL BUSINESS OPPORTUNITY AD HOC COMMITTEE**

- a. Staffing of OSBO – Mr. N. Jackson stated the committee discussed the staffing of the OSBO Office. We were informed there are is not a freeze on the positions. There are currently 2 vacant positions; Finance Resource Coordinator and Assistant OSBO Manager. We have a new manager, Ms. Erica Wade.
- b. Status of Mentor Protégé Program – Mr. N. Jackson stated the committee recommended that Council approve a pilot mentor protégé program. The pilot program is designed to motivate and encourage prime contractors as mentor to assist developing and small businesses.

Mr. Livingston stated it is not clearly stated what the recommendations are. He moved to defer this item until the December 4<sup>th</sup> Council meeting, and to bring back specific recommendations, with page numbers. Seconded by Mr. Malinowski.

Mr. N. Jackson stated staff did not have a recommendation, at the time, so he is reporting the committee's recommendation for action. He stated this has been drawn out for the last year.

In Favor: Malinowski, Myers, Pearce, Dickerson, N. Jackson and Livingston

Opposed: C. Jackson and Kennedy

The vote was in favor.

- c. NAICS (North American Industry Classification System) Code Funding Limit – Mr. N. Jackson stated, in accordance with the size standards of all agencies listed as follows: Construction - \$7 Million; Architectural - \$3 Million; Professional Services - \$3 Million; Engineering - \$2.5 Million and Wholesale Operations - \$2 Million. The committee is requesting Council to either continue with the current approved size standards or make necessary modifications. Staff provide a comparison table to reflect the size standards for Richland County, Charleston County, City of Savannah, Small Business

Administration, SBA, and the SCDOT. What has happened over the years is that SLBEs may graduate from the program. If they graduate from the program, we are limited in Richland County with the amount of SLBEs. We will find a point where all of these people graduate and we will have to go to other counties because the limit is so small. This is the discussion we have been having for several years, in regards to what we do when these SLBEs reach the maximum? Adjust NAICS Code? Or, keep it as it is? The recommendation is to adjust it, and leave it to Council on how to adjust it.

Ms. Dickerson inquired, for clarification, as to what the committee's recommendation was.

Mr. N. Jackson stated the committee recommended Council to discuss if we should keep it as it is or adjust it to the standard from Charleston, Savannah, SBA and SCDOT. It is limited, and as they graduate, they cannot get back on the program. If they cannot get back on the program, then we have no choice. The SLBE Program was designed to help small and local business in Richland County. What is happening now is, because of the limited amount of SLBEs in Richland County, if they graduate from the program then there is no one else, and we have to go to Lexington, and keep expanding until we find SLBEs to use these funds. The committee discussed that, and if we increase the amount to graduate from the program, we can keep more local businesses in the program.

Mr. Malinowski stated, while that is a staff recommendation, he does not see that in front of us. What he sees on p.492 where it says "Outcomes/Action Items" it states, "They will research the Charleston County size standards. They spoke with someone in Charleston." Then on p. 494, it states, "Staff will compile national/state/local size standards and send out an email to focus group participants." He stated there is nothing in here of any chart, recommendation or comparison of what we are going from and to. He sees on p. 491 we have the current standards. These particular items seem to be more of a report than to provide information for review, so we can take action.

Mr. Livingston moved, seconded by Mr. Malinowski, to defer this item to allow staff to bring back a recommendation.

Mr. N. Jackson stated those numbers were available in committee, and should have been included in the Council agenda.

In Favor: Malinowski, C. Jackson, Myers, Pearce, Kennedy, Dickerson, N. Jackson and Livingston

The vote in favor was unanimous.

- d. Small Business Focus Group – Mr. N. Jackson state the OSBO Office had a focus group discussion while Council was in recess in August.
- e. Sheltered Market/Goal Setting Ordinance Amendment Recommendations – Mr. N. Jackson stated this item was held in committee.
- f. SLBE Program Graduate Recommendations – Mr. N. Jackson moved, seconded by Mr. Malinowski, to defer this item.

In Favor: Malinowski, C. Jackson, Myers, Pearce, Kennedy, Dickerson, N. Jackson and Livingston

The vote in favor was unanimous.

21. **REPORT OF THE ORDINANCE REVIEW AD HOC COMMITTEE**

- a. Ordinance Amending the Richland County Code of Ordinances; Chapter 18, Offenses; Section 18-3, Noise; so as to limit noise in the unincorporated areas of Richland County – Mr. Malinowski stated the committee recommended to approve the amending language.

Mr. Malinowski stated, after reviewing this additionally, where it talks about the noise that will be banned, it does not...

Ms. Myers stated she remembers the discussion in committee, and this looks a little more expansive. She inquired if anything has changed between the committee...

Mr. Malinowski stated he thinks this is what was at the committee.

Ms. Dickerson stated, when she saw this, she was a little bit concerned. She stated in the summertime she is going to cut her grass after 6:00 PM because it is cool.

Mr. Malinowski stated, on p. 531, it says, "The following noises shall be exempt from the prohibitions of paragraph (1), even when they cause a disturbance". He stated the exemption if for 6:00 AM – 10:00 PM, so Ms. Dickerson can even mow her lawn at 9:00 PM.

Mr. Livingston stated he could support First Reading of this item.

Mr. Malinowski stated (d), on p. 531, where it gives the penalty, the committee recommended the removal of the language referring to imprisonment.

In Favor: Pearce, Dickerson, N. Jackson and Livingston

Opposed: C. Jackson and Myers

The vote was in favor.

- b. An Ordinance Amending the Richland County Code of Ordinances; Chapter 17, Motor Vehicles and Traffic; Article II, General Traffic and Parking Regulations; Section 17-10, Parking in Residential and Commercial Zones of the County; so as to define vehicles subject thereto – Mr. Malinowski stated his recollection is the committee recommended go with the changes in the red-lined version on pp. 532-535, with the removal of the language regarding imprisonment.

Mr. Malinowski moved, seconded by Mr. Livingston, to defer this item until the December 4<sup>th</sup> Council meeting.

In Favor: Malinowski, C. Jackson, Myers, Pearce, Kennedy, Manning, Dickerson and Livingston

Opposed: N. Jackson

The vote was in favor.

An Ordinance Amending the Richland County Code of Ordinances; Chapter 18, Offenses; Section 18-4,

Weeds and Rank Vegetation; so as to amend the time for notification -- Mr. Malinowski moved, seconded by Mr. Manning, to defer this item until the December 4<sup>th</sup> Council meeting.

In Favor: Malinowski, C. Jackson, Pearce, Kennedy, Manning, Dickerson, N. Jackson and Livingston

Opposed: Myers

The vote was in favor.

Mr. Malinowski stated the current ordinance that is in the agenda packet says 2 ft., and there is no change.

Mr. N. Jackson stated there is a discussion about the height, and that is not in here.

Mr. Malinowski stated that needs to be in there for December 4<sup>th</sup>.

Ms. Dickerson requested the agenda packet contain that information because that is one of the main concerns the citizens are having with 24 inches. She stated she would love to see it at 10 inches, but she will go with 12 inches.

22. **REPORT OF THE TRANSPORTATION AD HOC COMMITTEE**

- a. Approval for staff to write and send a letter to the City of Columbia requesting a commitment to share half of the construction costs for the facilities at the Three Rivers Greenway, which the Department of Revenue's guidelines prohibit the use of Transportation Penny funds for such construction. The facilities include two bathrooms; park ranger station; fire department building; and the parking lot, driveway and gate. The total construction cost is \$850,257; therefore, the County is requesting \$425,128.50 from the City – Mr. C. Jackson inquired as to how this item qualifies for Executive Session.

Mr. Smith stated it pertains to the current litigation the County is in with SCDOR.

Mr. C. Jackson stated he thought the motion was going to be that they were going to recommend the funding to come from the General Fund, and not the Penny Tax.

Mr. Smith stated he was not sure what the motion was going to be. He wanted to make sure Council was aware of how this fits into our current situation.

Mr. C. Jackson stated he thought, at the last meeting, this was on the agenda and Council voted on it. He was surprised to see it on the agenda because he thought we had approved it at the last meeting. And, it was with the understanding that it was not going to be Penny Tax funds.

This item was taken up in Executive Session.

23. **REPORT OF THE PROPERTY DISTRIBUTION MANAGEMENT AD HOC COMMITTEE**

- a. Department of Juvenile Justice – Report on the Staff Recommendation for new location on the O'Neil Court property – Ms. Myers stated, as you are aware, the Clerk of Court has asked to have her space,

that is being used by DJJ vacated by December 31<sup>st</sup> because they have desperate needs at the courthouse for statutory agencies, that are required to be there. DJJ not being one of them. The Clerk of Court has extended the deadline to March 31, 2019, to give all involved an opportunity to look at the options, to have get the committee to bring forward a recommendation, and to get a number associated with it, so Council can vote to approve or disapprove the upfit of a new building for DJJ.

- b. Update on the Richland Library request to use the Old Antique Mall Parking Lot – Ms. Myers stated this came as a result of a request from the library to use one of the properties the County purchased (the Old Antique Mall Parking Lot) as overflow parking. The committee recommended to authorize staff to enter into an agreement with the library to use the parking lot, and the library would be responsible for any costs associated with upgrading the parking lot. They would also bear the cost of any necessary insurance associated with that, and be made aware this is a temporary agreement, in effect until such time as the County needs the space for our own uses or decide to do something else with it.

Mr. Malinowski inquired if the County needs an MOU in place with the Library.

Mr. Smith stated he would recommend there be something in writing. If there is some understanding, or agreement, that has been reached.

Ms. Myers stated the motion is to draft an agreement with the Library.

Ms. Dickerson stated the Antique Mall is currently in her district, and she is there almost 7 days a week. She tries her best to accommodate a lot people. She stated she is going to withhold her comments because she has a serious...The Antique Mall is not usable. It has never been usable. The way the library configured their parking, it was wrong.

Ms. Myers stated one of the considerations that was before the committee, and impacted our decision, is the fact there is a band of people going around running a parking lot scam. Our parking lot has been part of that scam in which they have had people's cars towed from our lot. Having the parking lot in use by a County agency would allow monitoring of the parking lot.

Ms. Dickerson stated that is not what she sees. She is up and down Broad River Road all day long. The only problem she has had with the property is tractor trailers parking there. We addressed that issue by putting no parking signs over there. She stated she and Mr. Malinowski agree that once you start something, and people get conditioned to do that, you are going to have a hard time getting that stopped. When they put the parking lot in the back, it was in the wrong place.

In Favor: C. Jackson, Myers, Pearce, Kennedy, Manning, N. Jackson and Livingston

Opposed: Malinowski and Dickerson

The vote in favor was unanimous.

- c. Report on the possible use of the Brookfield Drive property for a new Dentsville Magistrate facility – Ms. Myers stated this is a property that has been offered to the County by Richland School District Two. It is a vacant lot. The committee voted to request staff to go back and look at possible uses for the property, and bring back recommendations to the committee.

- d. Update on the Paso Fino Property divestiture – This item was taken up in Executive Session.
- e. Report on Potential Northwest Recycling Center Property – This item was taken up in Executive Session.
- f. Inquiry from party interested in purchase of Sears and/or Dillard’s property – This item was taken up in Executive Session.

24. **REPORT OF THE BLUE RIBBON AD HOC COMMITTEE**

- a. HMGP-4241 (2015 Flood) Property Buy-Out Program – Mr. Pearce stated we have closed on 19 properties, and received reimbursement from FEMA for 12.
  - 1. Non-Residential Property Acquisition – Mr. Pearce stated we previously approved pursuing the purchase of several non-residential properties, as part of the FEMA Mitigation Program. The County was recently notified one of those properties had been sold to another interested party on August 31, 2018. As part of that sale, the property has been designated by DHEC as a brownfield, due to environmental contamination, and as such would not be eligible for FEMA funding. The committee discussed removing this property from our program. We are putting forth a motion requesting Council’s approval to cease our efforts in acquiring this property as a part of the voluntary property buyout program.

In Favor: Malinowski, C. Jackson, Myers, Pearce, Kennedy, Manning, Dickerson, N. Jackson and Livingston

The vote in favor was unanimous.

- b. CDBG-DR
  - 1. Approve award of the contract for Single-Family Home Rebuilds packages RC-106-P-2019 and RC-107-P-2019 to Mungo Homes – Mr. Pearce stated Council previously approved publishing a RFP for a General Contractor to replace homes that were too costly to repair. Two RFPs were issued. One for 3-bedroom and one for 4-bedroom home for a total of 33 homes to be rebuilt. A committee working with Procurement determined Mungo Homes was the highest ranked. Their cost proposal for a 4-bedroom home is \$120,342, and for 3-bedroom home is \$119,976. There will be no cost to the County since it is covered by CDBG-DR grant. The committee requested Council’s approval of awarding the 2 contracts to Mungo Homes for the purpose of rebuilding 33 homes.

In Favor: Malinowski, C. Jackson, Myers, Pearce, Kennedy, Dickerson, N. Jackson and Livingston

The vote in favor was unanimous.

- 2. Single-Family Repairs Change Order Approvals – Mr. Pearce stated, per the ordinance amended by Council in September, all flood-related change orders over 25% of the total cost of the original contract will require County Council staff approval. Staff presented 10 of these to the Blue Ribbon Committee. We request the approval of 10 change orders, over 25% for single-family home repairs, as presented.

Mr. Malinowski stated on p. 575 of the agenda, Change Order #2 shows \$2,750, yet over on p. 574 it



shows \$21,950.

Ms. Hegler stated p. 274 is an in-house coversheet that reflects the change order amount. The coversheet states they are requesting a change order of \$4,400, but they have not substantiated that in the receipts.

Mr. Malinowski recommended approval of all of the change orders, with the exception of Change Order #2.

Mr. Pearce inquired, if we could pull it, because that will mean we have to have another committee meeting.

Ms. Hegler stated they have another process in place for anything not falls below 25%.

In Favor: Malinowski, C. Jackson, Myers, Pearce, Kennedy, Dickerson, N. Jackson and Livingston

The vote in favor was unanimous.

3. Change Order Process – Approval to suspend Council rules to allow change orders, for 2015 flood-related work only, requiring Council action go directly to Council, bypassing committee – Mr. Pearce stated we have a number of change orders to single-family rehab program. These change orders required contractors to cease their work until approved via the proper channels. This not only delays the timing of the repairs, but adds significant expense, and hardship, in the form of lengthy hotel stays for homeowners that have had to vacate their homes for repairs. In addition to internal corrections made by staff, related to bidding on these projects, the Blue Ribbon Committee recommended allowing change orders requiring Council approval move straight to Council, and bypassing the Committee. This will reduce the amount of time required to process change orders. The action would require Council to suspend their rules (Rule 1.7(b)) for this one item.

Ms. Myers noted the briefing materials on p. 572 have a couple things that are inconsistent with the committee's recommendation, as outlined by Mr. Pearce.

In Favor: Malinowski, C. Jackson, Myers, Pearce, Kennedy, Manning, Dickerson, N. Jackson and Livingston

The vote in favor was unanimous.

4. Approve award of the contract for the Danbury Drive Basin Area Project to Woolpert – Mr. Pearce stated Council previously approved the Danbury Drive Basin Area Infrastructure Project under the CDBG-DR Program and approved issuing a RFP for its design and construction administration. Following the procurement process, Woolpert was the highest ranked, with an estimate of \$280,000. There will be no cost to the County; it will be covered by CDBG-DR. The committee requests Council's approval to award the contract for the Danbury Drive Basin Area Project to Woolpert in the amount of \$280,000.

In Favor: Malinowski, C. Jackson, Myers, Pearce, Kennedy, Manning, Dickerson, N. Jackson, Livingston

The vote in favor was unanimous.

- c. Approval of land uses for property buy-outs – Mr. Pearce stated this item was taken up at the September Blue Ribbon Committee meeting, but inadvertently left off the subsequent report to Council. If you recall, all properties purchased as part of the FEMA Hazardous Mitigation Program are to be owned by the County, in perpetuity, and deed restricted from development. To that end, with public input staff proposed a specific open space use for each property, specifically focusing on how each would best be maintained and remain compatible with surrounding property. Those uses, by property area, were presented to, and approved by the Blue Ribbon Committee. The motion we are bringing forward is to request Council’s approval of the recommended open space use of each property purchased, as part of the flood buyout program, as presented.

In Favor: Malinowski, C. Jackson, Myers, Pearce, Kennedy, Manning, Dickerson and Livingston

The vote in favor was unanimous.

Mr. Pearce thanked Ms. Hegler’s Herculean efforts in managing this committee for these several years. She has gone above and beyond expectations of what a good employee is. She is a great employee. It is a tremendous loss to the County, although we wish her well.

Mr. Pearce moved to reconsider all of the items under the Report of the Blue Ribbon Ad Hoc Committee.

Opposed: Malinowski, C. Jackson, Myers, Pearce, Manning, Dickerson, N. Jackson and Livingston

The motion for reconsideration failed.

25. **OTHER ITEMS**

- a. FY19 – District 1 Hospitality Tax Allocation – Mr. Manning moved, seconded by Mr. Malinowski, to approve this item.

In Favor: Malinowski, C. Jackson, Myers, Pearce, Kennedy, Manning, Dickerson, N. Jackson and Livingston

The vote in favor was unanimous.

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

Opposed: Malinowski, C. Jackson, Myers, Pearce, Kennedy, Manning, Dickerson, N. Jackson and Livingston

The motion for reconsideration failed.

- b. FY19 – District 4 Hospitality Tax Allocation – Mr. Manning moved, seconded by Mr. Malinowski, to approve this item.

In Favor: Malinowski, C. Jackson, Myers, Pearce, Kennedy, Manning, Dickerson, N. Jackson and Livingston

The vote in favor was unanimous.

Opposed: Malinowski, C. Jackson, Myers, Pearce, Kennedy, Manning, Dickerson, N. Jackson and Livingston

The motion for reconsideration failed.

- c. FY19 – District 7 Hospitality Tax Allocation – Mr. Manning moved, seconded by Mr. Malinowski, to approve this item.

In Favor: Malinowski, C. Jackson, Myers, Pearce, Kennedy, Manning, Dickerson, N. Jackson and Livingston

The vote in favor was unanimous.

Opposed: Malinowski, C. Jackson, Myers, Pearce, Kennedy, Manning, Dickerson, N. Jackson and Livingston

The motion for reconsideration failed.

- d. FY19 – District 9 Hospitality Tax Allocation – Mr. Manning moved, seconded by Mr. Malinowski, to approve this item.

In Favor: Malinowski, C. Jackson, Myers, Pearce, Kennedy, Manning, Dickerson, N. Jackson and Livingston

The vote in favor was unanimous.

Opposed: Malinowski, C. Jackson, Myers, Pearce, Kennedy, Manning, Dickerson, N. Jackson and Livingston

The motion for reconsideration failed.

- e. FY19 – District 11 Hospitality Tax Allocation – Mr. Manning moved, seconded by Mr. Malinowski, to approve this item.

In Favor: Malinowski, C. Jackson, Myers, Pearce, Kennedy, Manning, Dickerson, N. Jackson and Livingston

The vote in favor was unanimous.

Opposed: Malinowski, C. Jackson, Myers, Pearce, Kennedy, Manning, Dickerson, N. Jackson and Livingston

The motion for reconsideration failed.

- f. A Resolution to appoint and commission Eric Dull, Michael Eubanks, Johnny Besser, and Nicholas Day as Code Enforcement Officers for the proper security, general welfare, and convenience of Richland County

– Mr. Manning moved, seconded by Mr. Malinowski, to approve this item.

In Favor: Malinowski, C. Jackson, Myers, Pearce, Kennedy, Manning, Dickerson, N. Jackson and Livingston

The vote in favor was unanimous.

- g. Using Public Funds on Private Roads: Hardship Options – Mr. Gomeau stated this item needs to be forwarded to the D&S Committee.

Mr. Malinowski stated if we send this item to committee, it will more than likely be 2019 before we begin to work on it. It seems like we should get something in place before then. He stated he has some recommendations to establish a process relating to all private road issues, and to proceed with the recommendation, relating to repairing of roads that came out of the work session, for taking over maintenance of roads within subdivisions. The recommendation was to procure a third-party team to assist and develop a 5-year funding plan within the Capital Improvement Program, and schedule the work based on a matrix to be developed.

26. **CITIZENS' INPUT: Must Pertain to Richland County Matters Not on the Agenda** – No one signed up to speak.

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

- a. Pending Litigation: PDT Update
- b. City of Columbia vs. Richland County
- c. DHEC Notice of Enforcement Conference Update Proposed Consent Order Broad River WWTF
- d. Township Property Update
- e. City of Columbia requests to survey County-owned property
- f. Contractual Matter: Storage of Council Records
- g. Program Development Team Contract
- h. Approval for staff to write and send a letter to the City of Columbia requesting a commitment to share half of the construction costs for the facilities at the Three Rivers Greenway, which the Department of Revenue's guidelines prohibit the use of Transportation Penny funds for such construction. The facilities include two bathrooms; park ranger station; fire department building; and the parking lot, driveway and gate. The total construction cost is \$850,257; therefore, the County is requesting \$425,128.50 from the City
- i. Update on Paso Fino Property divestiture
- j. Report on Potential Northwest Recycling Center Property
- k. Inquiry from party interested in purchase of Sears and/or Dillard's property

In Favor: Malinowski, C. Jackson, Myers, Pearce, Kennedy, Dickerson, N. Jackson and Livingston

Opposed: Manning

The vote was in favor of going into Executive Session.

***Council went into Executive Session at approximately 8:51 PM and came out at approximately 9:53 PM.***

**Regular Session  
November 13, 2018**

The vote was in favor of coming out of Executive Session.

- a. Pending Litigation: PDT Update – Mr. C. Jackson moved, seconded by Mr. Livingston, to allow the Interim Administrator to attend the mediation with the PDT officials to resolve the contractual dispute.

In Favor: C. Jackson, Myers, Pearce, Kennedy, Dickerson, N. Jackson and Livingston  
Opposed: Malinowski

The vote was in favor.

- b. City of Columbia vs. Richland County – No action was taken.

- c. DHEC Notice of Enforcement Conference Update Proposed Consent Order Broad River WWTF – Mr. Malinowski moved, seconded by Ms. Dickerson, to direct staff to enter into a consent order with DHEC, and submit a corrective action plan.

In Favor: Malinowski, C. Jackson, Myers, Pearce, Kennedy, Dickerson and Livingston

The vote in favor was unanimous.

- d. Township Property Update – Mr. Pearce moved, seconded by Ms. Kennedy, to direct staff to proceed with negotiations related to activities related to the property adjacent to the Township Auditorium.

In Favor: Malinowski, C. Jackson, Myers, Pearce, Kennedy, Manning, Dickerson, N. Jackson and Livingston

The vote in favor was unanimous.

- e. City of Columbia requests to survey County-owned property – Ms. Myers moved, seconded by Ms. Kennedy, pursuant to discussions in Executive Session, to instruct our Interim Administrator, and his staff, to decline the request.

In Favor: Malinowski, C. Jackson, Myers, Kennedy, Dickerson and N. Jackson

Opposed: Manning and Livingston

The vote was in favor.

- f. Contractual Matter: Storage of Council Records – Mr. N. Jackson moved, seconded by Mr. Malinowski, to direct the Clerk to get a detailed contract, in order to review the itemized costs.

In Favor: Malinowski, C. Jackson, Myers, Pearce, Kennedy, Dickerson and N. Jackson

The vote in favor was unanimous.

- g. Program Development Team Contract – Mr. Livingston moved, seconded by Mr. Malinowski, to adjust the PDT contract, in reference to the SLBE percentage, from 51% to 39% for the remainder of the contract.

Mr. Manning stated he is voting in favor of this recognizing that the adjustment is a result of litigation.

In Favor: Malinowski, C. Jackson, Myers, Pearce, Kennedy, Manning, Dickerson, N. Jackson and Livingston

The vote in favor was unanimous.

- h. Approval for staff to write and send a letter to the City of Columbia requesting a commitment to share half of the construction costs for the facilities at the Three Rivers Greenway, which the Department of Revenue's guidelines prohibit the use of Transportation Penny funds for such construction. The facilities include two bathrooms; park ranger station; fire department building; and the parking lot, driveway and gate. The total construction cost is \$850,257; therefore, the County is requesting \$425,128.50 from the City – Mr. C. Jackson moved, seconded by Livingston, to authorize staff to send a letter to the City requesting 50% funding to support the completion of the Three Rivers Greenway Project, and that staff identify the appropriate non-Penny funds to cover the completion of this project.

In Favor: Malinowski, C. Jackson, Myers, Pearce, Kennedy, Manning, Dickerson, N. Jackson and Livingston

The vote in favor was unanimous.

- i. Update on Paso Fino Property divestiture – Ms. Myers moved, seconded by Mr. Livingston, to forward this item back to committee, and report back to Council after the next committee meeting.

In Favor: Malinowski, C. Jackson, Myers, Pearce, Kennedy, Dickerson, N. Jackson and Livingston

Abstain: Manning

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

- j. Report on Potential Northwest Recycling Center Property – Ms. Myers moved, seconded by Ms. Kennedy, to not move forward with the purchase of the property, instruct the Interim Administrator, and his staff to notify the seller, and take steps necessary to get back the earnest money.

In Favor: Malinowski, C. Jackson, Myers, Pearce, Kennedy, Dickerson, N. Jackson and Manning

The vote in favor was unanimous.

- k. Inquiry from party interested in purchase of Sears and/or Dillard's property – Ms. Myers moved, seconded by Mr. Manning, to direct the Interim Administrator, and his staff, to advise the interested party the County is not interested in a sale, at this time.

In Favor: Malinowski, C. Jackson, Myers, Pearce, Kennedy, Dickerson, N. Jackson and Livingston

The vote in favor was unanimous.

28. **MOTION PERIOD**

- a. I move to (1) increase the Fire Service Budget for Fiscal Year 2019 by \$368,410 to cover the personnel expenses for the 11 positions under the SAFER Grant from January 1 to June 30, 2019. The grant expires on December 31, 2018. Through the contract negotiations with the City of Columbia, County Council approved these 11 positions for Station 22 located at 2612 Lower Richland Blvd., Hopkins, SC 29061; and (2) to direct staff to include these positions in the recommended budget for the subsequent fiscal years [MYERS] – This item was referred to the A&F Committee.
- b. Develop Old Bluff Road as a true scenic boulevard for the Congaree National Park; 5-lane divided, lighted median and improved intersection on Bluff Road [N. JACKSON] – This item was referred to the D&S Committee
- c. Revisit the bed and breakfast ordinance to increase the number of rooms up to 20, so the business can be profitable and flourish. This would be in line with keeping the rural character and allow opportunities for small business [N. JACKSON] – This item was referred to the Rules & Appointments Committee
- d. Clarify the misleading term “cannot call names” during Citizens’ Input. Formal names can be called, but no name calling will be allowed outside of your formal name [N. JACKSON] – This item was referred to the Rules and Appointments Committee
- e. Bring forward all motions that were not resolved and place them on the appropriate agenda [N. JACKSON] – This item was referred to the Rules & Appointments Committee.
- f. Explore developing municipal enterprises for economically distressed communities with conservation and other properties owned by Richland County [N. JACKSON] – This item was referred to the A&F Committee.
- g. Develop incentives and tax credits for Green Economy. This promotes green collar jobs in environmentally sensitive areas [N. JACKSON] – This item was referred to the A&F Committee
- h. To be competitive in recruiting strong, qualified employees to Richland County, Administration must adopt benefits similar to the State. Adopt the annual and sick leave policy, which is an important tool in recruitment and retention of quality employees [N. JACKSON] – This item was referred to Staff.
- i. Richland County requires an internal audit committee to be in place. Under Sec. 2-79 of the Richland County Code, Powers and duties of the County Administrator, #2 implies that County Council appoints the Internal Auditor. Based on this Section, I move that Council hire (under a negotiated contract) an internal auditor, and appropriate funding for salary, benefits and other needs to cover this function within the County Council Services/Office. The interim administrator will need to appoint a county employee to the committee when the auditor is appointed [MALINOWSKI] – This item was referred to Staff.
- j. Have staff amend Sec. 26-186 (Development with Open Space Design Standards) of the Land Development Code by amending the formula used in determining the total number of units allowed in the utilization of density-based and density bonus design standards by subtracting the constrained open space area acreage from the total site acreage prior to calculating [MALINOWSKI] – This item was referred to Planning.

- k. Review impact fees for the development community on projects that will cause additional infrastructure which should not be paid by public dollars [N. JACKSON and MALINOWSKI] – This item was referred to the D&S Committee.
  - l. I move that the Magistrate’s Office on Wilson Blvd. be constructed with brick siding and not metal [KENNEDY] – This item was referred to the A&F Committee.
  - m. I move to amend 022-8HR “An Ordinance Amending the Richland County Code of Ordinances, Chapter 5, Animals and Fowl; Section 5-4, Community Cat Diversion Program; so as to amend the language therein” [KENNEDY] – This item was referred to the D&S Committee.
25. **ADJOURN** – The meeting adjourned at approximately 10:15 PM.