

RICHLAND COUNTY COUNCIL

SOUTH CAROLINA

COUNCIL WORK SESSION

April 29, 2016
3:00 PM
4th Floor Conference Room

In accordance with the Freedom of Information Act, a copy of the agenda was sent to radio and TV stations, newspapers, persons requesting notification, and was posted on the bulletin board located in the lobby of the County Administration Building

CALL TO ORDER

Mr. Rush called the meeting to order at approximately 3:05 p.m.

DEPARTMENT OF REVENUE UPDATE

POINT OF ORDER – Mr. Pearce stated it was his understanding that as much discussion as possible it to be held in open session.

Mr. McDonald stated a letter was received from the Department of Revenue, which was a follow-up to previous correspondence and discussions between the County and DOR. The County and DOR believe they are close to resolution, but the issue of capitalization needs to be addressed before a final resolution can be reached.

The Department of Revenue's position is the expenditures coming from the penny revenue should directly tie or relate to specific projects. The expenditures that are more general in nature, but still relate to the program, DOR does not believe are direct project related expenses. Therefore, those expenses should not necessarily be funded from the Penny Program.

Qualified Penny Project Expenditure: An outreach meeting held in a community to provided information regarding a proposed paving project would be a Penny Project expense.

Not Qualified Penny Project Expenditure: The Penny Program is providing information via website, billboard, etc. pertaining to the overall program. The expenditure would not be a qualified Penny Project expenditure.

Mr. Jackson inquired if the County's Penny Tax Program similar or different from other programs in the State.

Mr. McDonald stated it is believed the County's program is very similar to other jurisdictions.

Mr. Jackson inquired if the County is being requested to do something different than these other jurisdictions.



Council Members Present

Torrey Rush, Chair
Greg Pearce
Bill Malinowski
Paul Livingston
Julie-Ann Dixon
Jim Manning

Others Present:

Tony McDonald
Michelle Onley
Beverly Harris
Chris Gossett
Kevin Bronson
Quinton Epps
Daniel Driggers
Roxanne Ancheta
Larry Smith
Valeria Jackson

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Mr. McDonald is not aware if DOR has looked at other counties/jurisdictions across the State.

Mr. Malinowski inquired if the County is doing anything different in regards to the accounting methods utilized than other jurisdictions have done.

Mr. Smith stated staff has attempted to look into the matter. It is his understanding other counties, such as Charleston, who have Penny Programs utilize the same accounting standard (GASB) as Richland County.

Mr. Malinowski inquired about what authority DOR has to instruct Richland County to use a different accounting method.

Mr. Driggers provided Council:

- The "Capitalization Rules" which was previously discussed with the County and DOR
- SC Code of Laws, Chapter 37, Section 4-37-10, the law under which the County approved the Transportation Sales Tax

Mr. Malinowski inquired, to the best of staff's knowledge, if Richland County is operating correctly according to State law.

Mr. Smith as far as he knows the County is operating correctly.

Mr. Malinowski inquired what specific authority or statute has the Department of Revenue cited to request Richland County to make the changes.

Mr. Smith stated the Department of Revenue has not cited any authority they have to require Richland County to go another accounting standard.

- The County currently has \$50.9 million in the debt related to the Transportation Sales Tax. The debt comes due October 28, 2016.
- Current CMRTA Quarterly Commitment: \$3,825,000; Next Payment due May 15, 2016
- Transportation Cash
 - a. Current Cash (less interest - March): \$109,676,567
 - b. April Accounts Payable: \$2,829,869
 - c. Available Cash: \$106,846,698

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■ Commitments:

- a. Outstanding Debt – Recommend restricting funds: \$50,990,000
- b. Contracts Outstanding: \$51,770,463
- c. County Administration: \$300,000
- d. CMRTA – one year commitment: \$15,300,000
- e. Total 12-month commitment: \$118,360,463
- f. Enough funding available to last 9.9 months

Mr. Rush inquired about what impact the current debt would have on bonding capacity, as well as, bond rating.

Mr. Driggers stated the County received a call from the institution holding the current bond inquiring about the plans of the County.

Mr. Malinowski inquired if Mr. Reames had been asked if CMRTA was also going to be required to utilize the capitalization accounting method for the penny funds they receive.

Mr. Smith stated he had not personally inquired.

Ms. Frannie Heizer, McNair Law Firm, stated the CMRTA has not had direct contact with DOR related to any accounting standards or expenditures of penny funds.

Mr. Rush inquired of Ms. Heizer how she foresees this impacting the County's credit rating and confidence the bond holders have in the County.

Ms. Heizer stated Council is going to be asked to set aside approximately \$51 million to insure payment of the BAN. This will protect the County's credit rating and assure the investor Richland County conducts business in the correct way. The freezing, or the possibility the penny may not be available, could directly impact future borrowing against the penny.

Mr. Gossett stated currently SCDOT is developing the Hardscrabble Road Project. They are anticipating advertising for construction in July and receiving bids in September. Presently, Richland County has an agreement with SCDOT for \$30 million toward this project.

There is also an agreement in place for \$30 million with the City of Columbia for the North Main Project. There is \$10 million in TIGER Grant funding with hard deadlines, the City of Columbia has committed \$12 million toward the project, as well as, Federal earmarks associated with the project.

Mr. Pearce inquired if there are consequences if the County has accepted Federal funding and then is unable to make their commitment.

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Mr. Gossett stated most Federal funding is reimbursed, so the County would be responsible for paying for the project out of County dollars. The risk of losing the Federal funding would be tied to missing deadlines in the agreement with the Federal Highway Administration.

Mr. Driggers stated to-date \$84.5 million has been spent of Transportation Penny funds.

The costs are broken down as project costs or program costs.

Mr. Manning moved to allow the Department of Revenue collect and keep all the money and those entities receiving funding from the Transportation Tax Penny to invoice DOR directly for payment.

Mr. Rush ruled Mr. Manning's motion out of order.

Mr. Driggers provided a list of the positions that are captured, paid, expensed through the Program Development Team. The breakdown is as follows:

- 33% Program Costs
- 66% Project Costs

Of the \$84.5 million total, \$74.6 million is project costs and \$9.9 is program costs.

It is staff's understanding the only costs allowed to be paid for from the penny sales tax revenue are costs that can be directly linked to a project.

Mr. Driggers stated on an annual basis \$3.2 million of program costs would not be expendable from the penny sales tax revenue.

Expenses To-Date:

- \$6.7 million – Mitigation Bank; could be partially allocated back to the Transportation Sales Tax as the credits are used
- \$468,028 – County Transportation Staff; 55% of Transportation Director's time should be allocated to projects

Mr. Rose inquired if there were funds left over in Administration funding would that residual funding be allowed to be utilized for projects not fully funded.

Mr. Driggers stated he does not believe those funds would be available since the language in the referendum clearly established how much funding would go toward projects and administrative costs.

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Mr. Manning would like a response to the following question: "Is the Director of DOR promulgating a regulation?"

Mr. Livingston inquired if the \$9.9 million that has been spent would have to be repaid from the General Fund.

Mr. Driggers answered in the affirmative.

Mr. Driggers stated he has not been provided clarification from DOR on how the CMRTA portion of the funding would be handled since it is clearly operating costs.

Mr. Pearce stated if the County began utilizing "capitalization" would there be two (2) sets of accounting (IRS and GASB).

Mr. Driggers stated Finance would operate in the same way.

Mr. Pearce inquired as to who is going to inform the public they will have to pay an additional \$3.2 million per year for a program they were told would be paid for by the penny sales tax. There is also the possibility the County will have to repay up to \$10 million that has already been spent.

Mr. Pearce inquired if there is \$3.2 million in the Administrator's proposed budget to pay for Transportation Penny Program costs.

Mr. McDonald responded in the negative. The funds would have to come out of Fund Balance or significantly adjust the proposed FY16-17 budget.

Mr. Jackson inquired if the County is compliant with State law (Section 4-37-10).

Mr. Smith stated he believes the County is compliant.

Mr. Jackson stated DOR needs to respond in writing to inform the County what areas they believe the County is not compliant in.

Mr. Smith stated several attempts have been made to clarify what DOR believes the County is not in compliance with, but the responses are always generalized concerns and not specific.

Mr. Livingston stated what concerns him is DOR has indicated the County has misappropriated funds. He further inquired of Mr. Driggers if the County's audit indicated any misappropriation of funds.

Mr. Driggers responded in the negative. The auditors returned a clean opinion of the County's finances.

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Mr. Smith stated in the last letter from DOR the only remaining issue appears to be that of adopting a uniform accounting standard. He further stated he has repeatedly requested a citation on what statutory authority DOR has regarding this matter.

Mr. Manning inquired if it is Mr. Smith opinion the DOR Director has an understanding that Mr. Smith is the Richland County Attorney when Mr. Smith was making inquiries.

Mr. Smith stated the Director and the Deputy Director understood that he was the Richland County Attorney.

Mr. Pearce inquired about how many contracts Richland County Council has approved since the inception of the Transportation Penny.

Mr. McDonald stated Council approved the Program Development Team, the On-Call Engineering Team, and the Dirt Road Team. To the best of his knowledge those contracts were properly bid and awarded.

EXECUTIVE SESSION

No action was taken.

ADJOURNMENT

The meeting adjourned at approximately 4:55 PM.

The Minutes were transcribed by Michelle M. Onley, Deputy Clerk of Council