

**CHESTERFIELD COUNTY COUNCIL
REGULAR MEETING
COUNTY COUNCIL MULTI-PURPOSE BUILDING
January 7, 20159:00 A.M.**

PRESENT: Chairman J. Matthew Rivers, Vice-Chair Lenora V. Powe, Council Members: Kenneth A. Johnson, G. Franklin Plyler, Bruce E. Rivers, Robert G. Cole, Gerald L. Miller, Douglas A. Curtis and Mary D. Anderson.

OTHERS PRESENT: Denise Douglass – Administrator; Susie Boswell – Clerk to Council; Michelle Stanley – Finance Director; C. Heath Ruffner – County Attorney; Lisa Gainey – Human Resource Director; Tim Eubanks – Public Works; Amy Feistel – LINA Racing, LLC; Andrew Frick; Margaret P. Mitchell – CCCC; Susie Jordan – Assessor; Lisa Beam; Rose Gainey; Cathy Hatchell; Deepal Eliatamby – Alliance Consulting Engineers and Dr. Walter P. Collins, III – Dean, USC Lancaster. There were others attending the meeting who did not sign the sign-in-sheet.

CALL TO ORDER AND PRAYER

Chairman J. Matthew Rivers welcomed everyone and Council Member Bruce E. Rivers opened the meeting with prayer.

SPECIAL RECOGNITION:

Staff has implemented a Service Recognition Program that is designed to honor the County's Employees. The program will recognize years of service beginning at five years and following in five year increments. The following employees were recognized and presented with their Certificates:

<u>Employee</u>	<u>Department</u>	<u>Number of Years</u>
Lisa Beam	Administration/Council Office	5 Years
Susie Boswell	Administration/Council Office	5 Years
Jennifer Johnston	Assessor	5 Years
Rose Gainey	Landfill/Recycling	5 Years
Jennifer Vaughn	Sheriff	10 Years
Cathy Hatchell	Veteran's Affairs	15 Years
Susie Jordan	Assessor	30 Years

ADOPTION OF AGENDA

Council Member Bruce E. Rivers made a motion to adopt the January 7, 2015 meeting agenda with any amendments approved by Council. Council Member Cole seconded the motion. Voting in favor of the motion was unanimous.

OATH OF OFFICE

The Honorable Faye Sellers, Clerk of Court for Chesterfield County, administered the Oath of Office to the following Council Members: Gerald L. Miller – District 2; Kenneth A. Johnson – District 3; Douglas A. Curtis - District 4 and Mary D. Anderson – District 8.

APPROVAL OF MINUTES

a. December 3, 2014 – Regular Meeting

Council Member Miller made a motion to approve the December 3, 2014 Regular Meeting Minutes. Council Member Plyler seconded the motion. Voting in favor of the motion was unanimous.

b. December 17, 2014 Special Meeting

Council Member Miller made a motion to approve the December 17, 2014 Special Meeting Minutes. Council Member Plyler seconded the motion. Voting in favor of the motion was unanimous.

SIGNING OF BONDS, PAYROLL, AND AUTHORIZATIONS

None

APPOINTMENTS

a. Dr. Walter P. Collins, III – Dean, USC Lancaster

Appeared before Council and provided a brief presentation about USCL, sharing highlights and emphasizing the relationship between their campus and the students and citizens of Chesterfield County that they serve.

b. Margaret Plettinger Mitchell, Director, CCCC

Appeared before Council to request that Council appoint another member to the CCCC Board to replace former Council Member Crawford Moore and explained the importance of this appointment.

Chairman Matt Rivers made a motion to appoint Vice-Chair Lenora V. Powe to the Chesterfield County Coordinating Council Board. Council Member Plyler seconded the motion. Voting in favor of the motion was unanimous. Motion passed.

c. Amy Feistel, Sandblast Rally

Amy Feistel appeared before Council seeking the approval of Council to run the annual 2015 Sandblast Rally on March 7, 2015. This event is run each year in Chesterfield County with the approval of Council to use certain County Roads.

Council Member Johnson made a motion to approve the use of the specified roads to run the annual 2015 Sandblast Rally. Council Member Curtis seconded the motion. Voting in favor of the motion was unanimous. Motion passed.

PUBLIC COMMENTS

None

PUBLIC HEARINGS

a. Multi-County Park Agreement (Lancaster) (RAL Industries) Ordinance - Public Hearing

Council Member Bruce E. Rivers made a motion to open public hearing. Council Member Miller seconded the motion. Voting in favor of the motion was unanimous. There were no oral comments from the public made nor were any written comments received.

Council Member Johnson made a motion to close public hearing. Council Member Miller seconded the motion. Voting in favor of the motion was unanimous.

ORDINANCE READINGS AND RESOLUTIONS

a. Multi-County Park Agreement (RAL Industries) Ordinance - 3rd Reading

Council Member Bruce E. Rivers made a motion to pass 3rd Reading. Council Member Miller seconded the motion. Voting in favor of the motion was unanimous. Motion passed.

b. Multi-County Park Agreement Ordinance Amendment (Project Jinx – Schaeffler) – 2nd Reading

Council Member Anderson made a motion to pass 2nd Reading. Council Member Johnson seconded the motion. Voting in favor of the motion was unanimous. Motion passed.

c. Lease Agreement Ordinance – Pee Dee Coalition – 2nd Reading

Council Member Bruce E. Rivers made a motion to pass 2nd Reading. Vice-Chair Powe seconded the motion. Voting in favor of the motion was unanimous. Motion passed.

d. Multi-County Park Agreement Ordinance (Silgan Containers Manufacturing Corporation) – 1st Reading

Council Member Bruce E. Rivers made a motion to pass 1st Reading. Council Member Miller seconded the motion. Voting in favor of the motion was unanimous. Motion passed.

STANDING COMMITTEE REPORTS

None

ITEMS SUBMITTED BY STAFF

a. Upgrades for E911 – Douglass

Stated that it has been approximately seven years since the E911 system has been upgraded. The system has been experiencing hardware failure problems and software version issues regarding new enhancements. The useful life expectancy of such equipment and software is approximately four to five years and ours certainly falls within this criteria. The cost for the

upgrade is \$533,243. The good news is that the State will pay \$453,257 of this cost and leave the county with an out of pocket expense of \$79,986. The radio system is a 2003 version and has never been upgraded. The system is out of date and not efficient. The parts for the system are obsolete. The radio system upgrade will cost \$425,000. The bad news is that this is not reimbursable by the State, however we feel the benefit will far outweigh the cost. The funding for this could be handled through a lease-purchase; payments would be approximately \$90,000 for a five-year term. Staff met with the Finance Committee a while back and discussed the need for upgrades and the committee did agree. It is recommended that Council approve the two proposals.

Council Member Bruce E. Rivers made a motion to approve the two upgrades for E-911. Vice-Chair Powe seconded the motion. Voting in favor of the motion was unanimous. Motion passed.

b. Library Board Appointment – Douglass (Information only)

Mrs. Gail Ingram served on the Library Board for 27 years and now that she has been elected to the position of Probate Judge, she will no longer serve on this board. Council Member Cole has chosen to appoint Ms. Deborah Adams as his representative to this board.

c. Mobile Home Fire Dues Issue – Douglass

Stated there have been a few instances where some properties which have a mobile home and land with a building will have two fire dues (dependent on the values); one for the mobile home and one for the land with building. Council Member Curtis brought this issue up a while back and since then Staff has researched and gathered information in regards to it. The Finance Committee also met about it but needed more data to make any type of decision. This has been a long, tedious process as the Assessor has manually gone through over 600 records to date. This also required meetings with the Auditor and the software company. The end of the year is a busy time for the Treasurer therefore they have not been able to meet with her. It appears that this is not a widespread problem therefore the simplest solution would be for the fire department to give the taxpayer a refund.

There was some discussion regarding this matter.

ITEMS SUBMITTED BY COUNCIL

a. State of the County – Chairman Rivers

Chairman Rivers gave Council a year end closing State of the County Summary. See attached State of the County 2014.

b. Attorney General Opinion Request – Council Member Curtis

Council Member Curtis: Thank, you Mr. Chairman. As you all well know, you got your information packets. I've had several inquiries from constituents and other individuals concerning a member of council, sitting member of council also working for a state agency and I,

as a matter of fact, made a phone call to the circuit public defender, Michael Stephens and he informed me that he thought there might have been a problem but yet the county attorney had worked that problem out, so I called the county attorney and asked him for documentation and what he sent me back was the very first one and the only one, that I have received prior to getting this packet. It was the Attorney General's Opinion but what the opinion was asking, says you ask whether the service as a commissioner of the SC Commission of Indigent Defense and the service as a member of a Charleston County Aviation Authority would violate the prohibition against dual office holding. I personally I just didn't think this was related and out of the spirit of transparency and making sure that this county does not have any liability or liability on our legal staff, I'll ask with the consent of council that we ask for a current AG's Opinion so if there is any question on this matter whatsoever, we can take care of it now.

Chairman Matt Rivers: Well, I don't have a question, you know, I got some comments because the council member you are talking about is me. Who asked you questions, I don't know. I wouldn't think much of them whoever they are. It is really none of their business to a certain extent. I certainly would not have closed down a very lucrative law practice to go to work for the government willy-nilly. Those of you that know me on council, whether you like me or not, I think I have got a reputation for handling my business. I promise you I didn't close that practice walking into it thinking that I couldn't be on council but quite frankly, I like council. I have had a good time on council, fourteen years of it but it's not the number one thing in my life. I have seven Attorney General Opinions in here in front of me from the State of South Carolina, seven. I also have a US Supreme Court case on it. It's clear, it's clear to anybody that can read that I can be a public defender and sit on this council and so it's either a question of can't read or its politics. Now, it's clearly politics in my opinion. Mr. Curtis does not want me on this board. If we are going to be transparent, let's be transparent. I don't want to get into the details of this. I started reading when I was in about kindergarten and I've been a pretty good reader and starting in 1971 our Attorney General, every Attorney general just about has been posed with this question, with thousands of questions. Starting in 1971, the first question was whether a magistrate could be a public defender, a magistrate, you know what the Attorney General said, he said yes. Kind of shocked me but he said yes because a public defender does not work under the color of law. Now, I'm not trying to be educated and talk above anybody but I'm a lawyer and that's the only way I know to talk and it's under the color of law means I have to somehow act besides the sovereignty of the State of South Carolina. Any person who has any other job, Mr. Rivers, you are a fire chief, you are exempted. There are certain abilities that a fire chief has and they act under the color of law and as under the sovereign of the State of South Carolina, as well they should be. Public defender, we fight the government, I thought that was clear. In 1971, our Attorney General said of course a public defender can be a magistrate because a public defender and it's not dual office holding because their not an officer. In 1975, J.D. Jones from this very council wrote the Attorney General and asked whether the county lawyer could also be a public defender, guess what the Attorney General said, of course because a public defender is not an officer. To be a dual office holder you have to have two offices. I only have one. That's what dual means. In 1979, another opinion about a city council person, the only difference between me and a city council person is

that I am a county council person, not a city. It's a little word in front of it, otherwise, we are the same. We are elected similarly, I just have a larger area. Some city councils in this State, have a larger area. I've got a 1982 opinion, I've got a 2005 and a 2010. The 2010 was under the new statute and I'll read this to you. Now, this was supplied to Mr. Curtis. I didn't know that I was so popular where people were that inquisitive about where I work. I've always appreciated people that had hair because I don't have any. I'm assuming it's the same way with him with people having careers and being self made. I will state as follows, as a side note, on many occasions our office has concluded that county public defenders are not officers for dual office holding purposes, this is 2010. The result was reached on the basis that a public defender does not act on the state's behalf or in concert with it. Again, these are not my words, this is the words of our Attorney General. On the seventh opinion about this they established that circuit public defenders are circuit public defenders. It explained that county public defenders and by the way there is only county public defenders or chiefs that are named by statute and in our present system we have a circuit public defender and there's 16 in the state and they are commensurate with the circuit solicitor. In our circuit there is Mike Stephens, it is not me and it says that county public defenders shall serve at the pleasure of the circuit defender. I have a boss is what its saying and so clearly I am not an office holder for the seventh time since 1971. For 44 years this office has not opined on whether circuit public defenders, that would be the head boss, which is not me, that even consider officers for dual office holding purposes, however, because of the long standing notion, longstanding, not my words, that county public defenders are not officers, it is likely that a court would find that circuit public defenders, that is the top job, which is not mine. I work for this person, and they are not considered officers for dual office holding purposes. If we are going to send a letter on this, I suggest we send a letter to the local math teacher at Edwards and ask her if $2+2=4$. I think we ought to write a letter to the Walt Disney Corporation and ask is Mickey Mouse a mouse and maybe ask the Mayor of New York, is the Empire State Building in New York City. It's a personal political attack. I don't plan to address it any further. On top of all this, I don't have to worry about, with all due respect to the Attorney General of South Carolina, all of this is based on a 1981 case of Polk v. Dobson, a US Supreme Court case and I read as follows "a public defender does not act under color of state law." This is a 1983 Civil Rights Act case and again, I'm not trying to talk over anybody's head but I'm having to defend myself and debate legal points because I'm a lawyer. That performing a lawyers additional functions as council, the legal system posts that a defense lawyer best serves the public not by acting on the states behalf or in concert with but rather by advancing the undivided interests of its client and this opinion is cited in J. Hugh Ryan in 2010. Now, I don't know how to make it any clearer. If I could not have served in a dual office capacity, does anyone of the other seven of you think that I would have done that? I mean, if I have not in the 14 years got any more credit with yall to think that I would have went and done that and I spent years, whether you like me or not, trying to protect the integrity of this council. I did it last month when we had it with the sheriff's office. I said whatever we do, let's not embarrass our new sheriff. I didn't do that for me. I remember years ago when several of us were left off a ballot. You know what I did? I went out and made sure all of us were on the ballot. I filed a motion, I got a court order and I got us all on the ballot. You think I did a motion for me to be put on the ballot? I did it for all of us. When we had the thing with the animal issue with the

sheriff with the dog issue. We had the press all over us for months and we had people here every month. I wanted to make sure that we looked good to the citizens of this county. This is 2015 and this is how we start. Mr. Curtis was just re-elected and this is his first issue out the box. Now, I don't plan to go forward with this, if any of you doubt my integrity, I suggest you speak now. I don't doubt yours. I have no beef with anybody on here other than Mr. Curtis. I think all of you are fine women and gentlemen and in spite of our differences I don't think any of you would have done anything like this and I can promise you if the shoe was on the other foot and I've had my opportunity to question things, I always kept my mouth shut because I want this council to look good. I think it is important that we portray a nice picture to the citizens of this county. I think if we have personal problems with each other, we ought to keep that behind closed doors. I've done my best to do that for 14 years but I can only take so much. I've had to put up with more on this council from this gentleman than any of you had to put up with anything and that's part of me being chair. Lord knows I wish I had known that when I ran for it but I would like to go forward. I'm assuming unless the other council members suggest that we don't, otherwise, I'd like to put this behind us. Let's create jobs for these citizens of this county. Let's make sure we can rein in taxes. Mr. Johnson you will love that. I will do my best this year to make sure we do that and do some good things for the citizens and keep personal issues away from the public and do what the people of this county elected us to do and that was to represent them and not to get into political games attacking each other. Other than Mr. Curtis, does anybody have a problem with me going forward with that? Hearing none, we will now go to announcements.

UNFINISHED BUSINESS

None

NEW BUSINESS

None

ANNOUNCEMENTS

Council Member Johnson

None

Council Member Plyler

None

Council Member Anderson

None

Council Member Cole

None

Council Member Bruce E. Rivers

None

Council Member Curtis

None

Council Member Miller:

None

Council Vice-Chair Powe

None

Council Chair J. Matthew Rivers

None

Administrator Denise Douglass

None

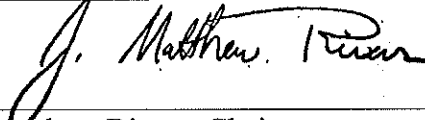
EXECUTIVE SESSION

Council did not enter Executive Session.

ADJOURN

Council Member Johnson made a motion to adjourn. Council Member Miller seconded the motion. Voting in favor of the motion was unanimous.

APPROVED:



J. Matthew Rivers, Chairman

Date: February 4, 2015

ATTEST:



Susie Boswell, Clerk to Council