

# RICHLAND COUNTY COUNCIL

## SOUTH CAROLINA

### REGULAR SESSION MINUTES

July 7, 2015  
6:00 PM  
County Council Chambers

*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 6:01 PM

#### INVOCATION

The Invocation was led by the Honorable Kelvin E. Washington, Sr.

#### PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by the Honorable Kelvin E. Washington, Sr.

#### PRESENTATION OF RESOLUTION

- a. **Resolution recognizing Deputy Trobathian Johnson for his act of heroism in rescuing two citizens when their boat capsized on Pinewood Lake [JACKSON]** – Mr. Jackson presented Deputy Trobathian Johnson with a resolution for his act of heroism.

#### APPROVAL OF MINUTES

**Regular Session: June 16, 2015** – Mr. Manning moved, seconded by Ms. Dickerson, to approve the minutes as distributed.

Mr. Malinowski noted for the record that Ms. Brawley deserved the same recognition as the Congaree Riverkeeper.

The vote in favor was unanimous.

**Zoning Public Hearing: June 23, 2015** – Mr. Pearce moved, seconded by Ms. Dixon, to approve the minutes as distributed. The vote in favor was unanimous.



#### Committee Members Present

Torrey Rush, Chair  
Greg Pearce, Vice Chair  
Joyce Dickerson  
Julie-Ann Dixon  
Norman Jackson  
Damon Jeter  
Paul Livingston  
Bill Malinowski  
Jim Manning  
Kelvin E. Washington, Sr.

#### Others Present:

Tony McDonald  
Daniel Driggers  
Valeria Jackson  
Tracy Hegler  
Larry Smith  
Brad Farrar  
Geo Price  
Ismail Ozbek  
Ray Peterson  
Sparty Hammett  
James Hayes  
Nelson Lindsay  
Quinton Epps  
Warren Harley  
Dwight Hanna  
Beverly Harris  
Michelle Onley  
Monique McDaniels

**ADOPTION OF THE AGENDA**

Mr. Washington moved, seconded by Mr. Jackson, to add an item under Report of the Attorney for Executive Session entitled "Potential Contractual Matter". The vote in favor was unanimous.

Mr. Pearce moved, seconded by Ms. Dixon, to adopt the agenda as amended. The vote in favor was unanimous.

**REPORT OF THE ATTORNEY FOR EXECUTIVE SESSION ITEMS**

- a. South Carolina Public Interest Foundation and William B. DePass, Jr. vs. Allen Dowdy, Adell Adams, Elaine Dubose, Herbert Sims, Samuel Selph, and the Board of Elections and Voter Registration for Richland County – Legal Advice**
- b. Road Closing Petition (Portion of Technology Circle)**
- c. Potential Contractual Matter**
- d. Pinewood Lake Ad Hoc Committee: Contract Agreement**

**CITIZENS' INPUT**

**(For Items on the Agenda Not Requiring a Public Hearing)**

The following citizens spoke: (1) Helen Taylor Bradley, (2) Lottie P. Wesley, (3) Rhonda Myers and (4) Marie Stallworth regarding Item 26(a)(1) – "Consulting Services for Richland County Utilities Department: Move to engage a private entity to temporarily manage the Utilities Department while performing an assessment of the Department to determine how it should be managed in the future."

**POINT OF PERSONAL PRIVILEGE** – Mr. Rose recognized that Vince Ford and Lonnie Randolph were in the audience.

**REPORT OF THE COUNTY ADMINISTRATOR**

No report was given.

**REPORT OF THE CLERK OF COUNCIL**

No report was given.

**REPORT OF THE CHAIRMAN**

No report was given.

**OPEN/CLOSE PUBLIC HEARING**

- **An Ordinance Amending the Richland County Code of Ordinances; Chapter 6, Buildings and Building Regulations; Article III, Building Codes; Section 6-84, Boarded-Up Structures; Subsection (d), Paragraph (1); so as to change the language, “The Permit Fee Shall be \$25.53 for Residential Buildings and \$51.05 for Mixed-Use and Commercial Buildings” to “The Permit Fee Shall be charged at the rate on the current Richland County Fee Schedule” – No one signed up to speak.**

**APPROVAL OF CONSENT ITEMS**

- **An Ordinance Amending the Richland County Code of Ordinances; Chapter 6, Buildings and Building Regulations; Article III, Building Codes; Section 6-84, Boarded-Up Structures; Subsection (d), Paragraph (1); so as to change the language, “The Permit Fee Shall be \$25.53 for Residential Buildings and \$51.05 for Mixed-Use and Commercial Buildings” to “The Permit Fee Shall be charged at the rate on the current Richland County Fee Schedule” [THIRD READING]**
- **15-51MA, CCW Bluff Rd., LLC, HI to LI (2.5 Acres), 1400 Bluff Rd., 11209-03-05 [SECOND READING]**
- **15-26MA, Jeff & Jodi Salter, RS-MD to OI (5 Acres), 2304 Clemson Rd., 20200-01-01 [SECOND READING]**
- **15-27MA, Robert Berger, RU to NC (3.53 Acres), 4154 Hard Scrabble Rd., 20200-03-30 [SECOND READING]**
- **15-28MA, Kay Evans, RU to RS-MD (14 Acres), Riding Grove Rd., 28900-01-27/28/31 [SECOND READING]**
- **15-30MA, M. B. Arnold, RM-HD to GC (.64 Acres), 1555 & 1557 Daulton Dr., 17012-03-11 & 12 [SECOND READING]**
- **15-31MA, Elton Johnson, GC to RS-MD (.97 Acres), 6423 Monticello Rd., 09401-06-07 [SECOND READING]**
- **SCE&G Utility Easement—Jim Hamilton Blvd.**
- **Motion to Withhold County Funding From Any Neighborhood/Community/HOA Which Does not Allow Public Attendance and/or Denies Access to Anyone**
- **One Year Extension of County-City 911 Intergovernmental Agreement**

Mr. Manning moved, seconded by Ms. Dixon, to approve the consent items. The vote in favor was unanimous.

## SECOND READING ITEMS

**An Ordinance Amending the Richland County Code of Ordinances; Chapter 26, Land Development; Article II, Rules of Construction; Definitions; Section 26-22, Definitions; so as to alter the definition of "Subdivision"** – Mr. Malinowski moved, seconded by Mr. Rose, to approve this item. The vote in favor was unanimous.

**An Ordinance Amending the Richland County Code of Ordinances; Chapter 26, Land Development; Article IV, Amendments and Procedures; Section 26-54, Subdivision Review and Approval; Subsection (c), Processes; Paragraph (3), Major Subdivision Review; Subparagraph D, Bonded Subdivision Plat Review and Approval; Clause 6, Recordation; so as to properly cross-reference two subsection** – Ms. Dixon moved, seconded by Mr. Malinowski, to approve this item. The vote in favor was unanimous.

**An Ordinance Amending the Richland County Code of Ordinances; Chapter 26, Land Development; so as to add townhouses as a permitted use with special requirements in the RM-MD and RM-HD Zoning Districts** – Ms. Dickerson moved, seconded by Mr. Rose, to approve this item. The vote in favor was unanimous.

## REPORT OF ADMINISTRATION AND FINANCE COMMITTEE

**Motion to Direct the Administrator and Staff to Abide by all Policies, Directives, Guidelines and Ordinances set by Council; Action Plan for Violations** – Mr. Malinowski stated the action plan for violations is already addressed in the Employee Handbook. Additionally, any information that Mr. Jackson requires may be provided by the Clerk of Council's Office.

Mr. Jackson stated he made the motion in order to ensure there is accountability by upholding the rules and policies of the Employee Handbook.

The vote was in favor of the committee's recommendation to compile all County departmental policies, and forward the policies to Council for their consideration.

**An Ordinance Authorizing a lease to United Way of the Midlands for 5178± square feet of space at 2000 Hampton Street, 3<sup>rd</sup> Floor and square feet of space at 2000 Hampton Street, 4<sup>th</sup> Floor [FIRST READING]** – Mr. Malinowski requested Exhibits A and B be included in the agenda for Second Reading. Additionally, he expressed concern for County janitorial staff that may come into contact with blood born pathogen waste. Therefore, anything that could have blood born pathogen waste on it should be cleaned by the lessee's staff.

Mr. Malinowski moved, seconded by Ms. Dixon, to approve the item, but to amend the lease language to protect the County's janitorial staff.

Mr. Rose inquired if the needs for the eye clinic have been addressed in the lease before Council.

Mr. McDonald stated it is his understanding the needs have been addressed.

Mr. Pearce requested a friendly amendment to review the lease language instead of amending it at this time.

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Mr. Malinowski accepted the amendment.

The vote in favor was unanimous.

**POINT OF PERSONAL PRIVILEGE** – Mr. Pearce recognized the some of the clinicians for the clinic were in the audience.

**Approval of Sponsorship/Donation Payments** – Mr. Malinowski stated according to the ROA the County once funds are given needs to be provided a detail description of the purposes for the money was used.

Mr. Malinowski moved to defer this item until the information is provided.

The motion died for lack of a second.

Mr. Pearce stated the purpose of the ROA was to approve the expenditure of the funds in advance and the information regarding the specific expenditure of funds will be provided when the request for the funds is presented to the Finance Department.

Mr. McDonald stated approximately a year ago the legislation changed with respect to individual and/or organization donations from local governments. The change in the legislation required that (1) Council formally appropriate the money as a line item in the budget and (2) identify the agency, group, or individual who is receiving the donation. The procedure Council developed was to appropriate the funding and agreed to come back in the fiscal year and identify them by name, which is what is before the Council tonight.

The vote was in favor of the committee's recommendation to approve the sponsorship/donation payments, totaling \$1,690.00 made between September 2014 and December 2014.

**Lease Agreement: Warehouse for Richland Library during Capital Program** – Mr. Pearce stated the committee's recommendation was to approve the request to enter into a lease agreement which will allow the library to securely store furnishings and equipment in an accessible location.

Mr. Malinowski stated after reviewing the lease and speaking with the Legal Department he was informed legal suggested changes to the lease. The revised lease was forwarded to the library for review and their response has not been received by the County's Legal Department.

Mr. Malinowski moved, seconded by Mr. Washington, to defer this item until Legal is prepared to bring the lease back to Council.

**FOR**

Dixon  
Malinowski  
Rose  
Rush  
Washington

**AGAINST**

Jackson  
Pearce  
Dickerson  
Manning

The vote was in favor of deferral.

**REPORT OF RULES AND APPOINTMENTS COMMITTEE**

**I. NOTIFICATION OF APPOINTMENTS**

- a. Board of Zoning Appeals—1** – Mr. Malinowski stated the committee recommended re-appointing Mr. William Wallace Smith, Sr.

Mr. Rose moved, seconded by Mr. Jackson, to nominate Ms. Ray Borders Gray.

Mr. Rose and Mr. Jackson voted for Ms. Ray Borders Gray.

Ms. Dixon, Mr. Malinowski, Mr. Pearce, Mr. Rush, Ms. Dickerson, Mr. Washington and Mr. Manning voted for Mr. William Wallace Smith, Sr.

Mr. William Wallace Smith, Sr. was re-appointed.

- b. Planning Commission—1** – This item was held in committee.

**OTHER ITEMS**

**REPORT OF PINEWOOD LAKE AD HOC COMMITTEE:**

- a. Operations Plan** – Mr. Jackson stated the committee recommended incorporating the proposed operations plan into the original plan adopted in 2013.

Mr. McDonald stated when the redevelopment of the Decker Center began there were inquiries from community groups and organizations interested in utilizing the parking lot, the community room and the facility in general for events. In response, staff drafted an operations plan for the property, which also included the Pinewood Lake (Caughman Pond) property since it also would be used for public/community events. An operations plan, more specific to Pinewood Lake, was presented to the ad hoc committee. The committee's recommendation was to incorporate the Pinewood Lake Operations Plan into the previous operations plan.

Ms. Dickerson inquired if all of the Richland County facilities could be utilized by anyone.

Mr. McDonald stated that it is the intent.

Ms. Dickerson moved, seconded by Mr. Rose, to defer until the July 21<sup>st</sup> Council meeting.

**FOR**

Dixon  
Malinowski  
Rose  
Pearce  
Rush  
Dickerson  
Washington  
Manning

**AGAINST**

Jackson

The vote was in favor of deferral.

- b. Emergency Construction of Restrooms** – Mr. Jackson stated the committee recommended moving forward and to allow staff to work with the contractor to proceed with the original plan.

Action on this item was deferred until after Executive Session.

- c. Contract Agreement** – This item was taken up in Executive Session.

**REPORT OF SEWER AD HOC COMMITTEE:**

**a. Consulting Services for Richland County Utilities Department**

- 1. Move to engage a private entity to temporarily manage the Utilities Department while performing an assessment of the Department to determine how it should be managed in the future [WASHINGTON]** – Mr. Washington stated the committee discussed the transitions that are taking place in the Utilities Department with the resignation of the Director and the Deputy Director. The consensus of Council is there is a flux with operations with all of the projects. The intent of the motion is for a private entity to temporarily run the department, as well as, do an assessment of the department at the same time. The overall system needs to be assessed and a decision needs to be made by Council on whether to move forward with the previous proposals. Staff has indicated they are in discussions with a potential Director.

Mr. Washington stated the committee recommended moving forward with the development of a RFP in the event the discussions with the potential Director do not work out.

Mr. McDonald stated his understanding of the motion is that staff will develop a Request for Proposals for a consultant management firm to potentially manage the Utilities Department on a temporary basis and provide an assessment of the department. The RFP would not be issued or go any further than the drafting phase. If the discussions are not successful then the RFP would be issued to bring in a consultant to temporarily manage the department until a Director can be hired.

Mr. McDonald further stated one of the deterrents to recruiting a potential Director has been the question as to whether the County is going to privatize the function, selling the system, etc.

Mr. Malinowski stated the motion that he made at the committee meeting was to create a RFP to perform an assessment of the department not to put out a RFP to hire a consultant. The assessment is to be done in conjunction with the potential hiring of a Director.

Mr. Manning inquired at what level does Council become involved in the decision of hiring a Director, consultant, etc.

Mr. McDonald stated, from the Administrator's prospective, if there is a vacancy at a department director level then an interim would be appointed until the position can be filled permanently.

Mr. Manning inquired if the Administrator has authority to contract privately if the need arises.

Mr. McDonald stated he does have the authority to contract up to a certain dollar amount.

Mr. Malinowski stated Mr. Hammett and Mr. McDonald were asked about the major projects the County is presently involved in and they stated the County was in good shape in regards to those projects.

Ms. McDaniels clarified the motion out of committee as follows: "To draft a RFP to do an analysis of the Utilities Department if staff could not negotiate with the current candidate."

The vote in favor of the committee's recommendation.

**A Resolution to appoint and commission Raymond C. Smith as a Code Enforcement Officer for the proper security, general welfare, and convenience of Richland County** – Mr. Pearce moved, seconded by Ms. Dixon, to approve the this item. The vote in favor was unanimous.

### **CITIZENS' INPUT (Must Pertain to Items Not on the Agenda)**

Helen Taylor Bradley spoke regarding Council being honest with the constituents, the budget process and voting on record.

Lottie P. Wesley spoke regarding Council and staff providing complete and articulate information to the public.

### **EXECUTIVE SESSION**

*Council went into Executive Session at approximately 7:14 p.m.  
and came out at approximately 8:03 p.m.*

- a. **South Carolina Public Interest Foundation and William B. DePass, Jr. vs. Allen Dowdy, Adell Adams, Elaine Dubose, Herbert Sims, Samuel Selph, and the Board of Election and Voter Registration for Richland County** – Mr. Pearce moved, seconded by Mr. Malinowski, to direct the Administrator to affirm the issue previously discussed by Council and communicate it to party. The vote in favor was unanimous.
- b. **Road Closing Petition (Portion of Technology Circle)** – Mr. Pearce moved, seconded by Mr. Manning, to move forward as directed by counsel contingent upon receiving a response from EMS. The vote in favor was unanimous.
- c. **Potential Contractual Matter** – No action was taken.
- d. **Pinewood Lake Ad Hoc Committee: Emergency Construction of Restrooms** – Mr. Jackson stated the committee recommended moving forward with the original plan for the restrooms at the original costs. If the contractor cannot construct the restrooms at the original costs then the matter will be brought back to Council. The vote in favor was unanimous.
- e. **Pinewood Lake Ad Hoc Committee: Contract Agreement** – Mr. Jackson stated the committee recommended moving forward with the contract with the following amendment: “Any funds over the proposed annual operating costs will be returned to the County.”

Mr. Fosnight stated the amendment Mr. Jackson mentioned will look at the costs for the foundation to run the operations and anything above and beyond that will be returned to the County.

Mr. Washington inquired once the operational cost benchmark has been established then anything beyond that amount has to be refunded back to the County.

Mr. Fosnight answered in the affirmative.

Mr. Manning inquired of the status of the foundation’s nonprofit paperwork.

Mr. Fosnight stated his understanding is it is pending.

Mr. Smith clarified that pending means no formal action has been taken on the application to approve it.

It was Legal’s understanding initially that the foundation was a 501(c)(3) organization. The information that legal was subsequently provided was they were a nonprofit organization; however, they had not formally been established as a 501(c)(3).

Mr. Manning inquired as to who will be responsible for the audit of the funds that have come into Pinewood Lake to determine what “profit” should come back to the County.

Mr. McDonald stated it is his understanding the agreement calls for the foundation to submit a monthly financial report of the revenue collected to the Capital Projects Manager.

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Ms. Dickerson inquired if a nonprofit can operate with County funds without being a 501(c)(3).

Mr. Smith stated he is not sure what the County's specific grant requirements are for nonprofits.

Ms. Dickerson inquired if the organization does not receive their 501(c)(3) status within this fiscal year will the County get someone else to operate or will the organization continue to operate as a nonprofit.

Mr. Smith stated the contract is for a year and there is currently no provision that indicates the contract will terminate or cease if they do not receive their 501(c)(3) certification.

Mr. Jackson stated when an organization is registered by the State as a nonprofit they are a legal nonprofit organization. A 501(c)(3) designation means is they can apply for grants for a tax exempt purposes.

Mr. Washington inquired if there was an organization that oversees the operation of the rowing facility and if they generate revenue from their events.

Mr. McDonald stated the County is contracted with the Columbia Rowing Club, but the County's Support Services Department does the majority of the property maintenance. Mr. McDonald further stated he is unsure if the Columbia Rowing Club generates any revenue from the events held at the facility, but will research the matter and bring it back to Council.

Mr. Manning stated it is his understanding the foundation will be doing all operations and have all liability at the point Council approves the contract.

Mr. Smith stated the foundation will be doing the operations, as stated in the contract. There are provisions in the contract that protect the County from indemnification, hold harmless, which are designed to protect the County.

Mr. Rose inquired as to who authorized the foundation to begin operating the facility.

Mr. Smith stated he could not answer that question.

**FOR**

Dixon  
Malinowski  
Jackson  
Pearce  
Dickerson  
Washington

**AGAINST**

Rose  
Rush  
Manning

The vote was in favor of the committee's recommendation.

Mr. Jackson moved, seconded by Mr. Washington, to reconsider this item. The motion failed.

**MOTION PERIOD**

**Resolution recognizing Chaplain Carnell Johnson on being named 2015 Correctional Volunteer of the Year [MALINOWSKI]** – Mr. Pearce moved, seconded by Mr. Washington, to adopt a resolution recognizing Chaplain Carnell Johnson. The vote in favor was unanimous.

**Move that Richland County Council pass a resolution requesting the State Legislature remove the Confederate Battle Flag from the State House grounds [ROSE]** – Mr. Pearce moved, seconded by Mr. Washington, to adopt a resolution requesting the State Legislature remove the Confederate Battle Flag from the State House grounds.

Mr. Malinowski stated, when resolutions are adopted, Council is typically speaking on behalf of the constituents. This resolution however is related to a very divisive issue in his district and there are many passionate people on both sides of the issue. Therefore, it would not be right for him to attempt to speak on their behalf when they are split on the issue.

**FOR**

Dixon  
Rose  
Jackson  
Pearce  
Rush  
Dickerson  
Washington  
Manning

**AGAINST**

Malinowski

The vote was in favor.

**Request that Richland County Council pass a resolution that states to Governor Nikki Haley and the Richland County Legislative Delegation that, Richland County Council will not support racial discrimination and the practice of hate crimes or terrorism, foreign or domestic, against an individual or specific group of people. As a collective body, who supports individual liberty and the pursuit of happiness for all people. We respectively request that immediate action be taken to remove the Confederate Battle Flag that flies on the grounds of the South Carolina State House which sits in the County of Richland [JACKSON]** – Mr. Jackson moved, seconded by Mr. Washington, to adopt a resolution that states: “Richland County Council will not support racial discrimination and the practice of hate crimes or terrorism, foreign or domestic, against an individual or specific group of people. As a collective body, who supports individual liberty and the pursuit of happiness for all people. Council respectively requests that immediate action be taken to remove the Confederate Battle Flag that flies on the grounds of the South Carolina State House...”

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**FOR**

Dixon  
Rose  
Jackson  
Rush  
Washington

**AGAINST**

Malinowski  
Pearce  
Dickerson

The vote was in favor of the resolution.

**Allow Council Members to electronically participate in ad hoc committee meetings**  
**[WASHINGTON]** – This item was referred to the Rules & Appointments Committee.

**ADJOURNMENT**

The meeting adjourned at approximately 8:43 PM.

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