

**Pickens County Council Meeting**  
**Regular Meeting**  
Items Before the Pickens County Council on

**Tuesday, September 7, 2004**  
**7:00 PM**

Agenda

September 7, 2004

*\*\*These are not official minutes of the Pickens County Council meeting. This reflects the issues that were before Council and shows “Approved or “Not Approved”*

September 7, 2004  
Regular County Council Meeting  
7:00 PM

County Council met in regular session in the auditorium, County Administration Facility, with Vice Chairman Norman D. Langston presiding. Agendas, bearing date, time and location of meeting, were mailed to Council members and local news media September 2, 2004.

Council Members in attendance:

Ronald D. Harrison, Chairman –absent

Norman D. Langston, Vice Chairman  
James London, Vice Chairman Pro-tempore  
James H. Patten, III  
C. Roy Collins  
Jennifer H. Willis

Staff: Alan M. Ours, County Administrator  
Ken Roper, County Attorney  
Lynn Fisher, Assistant Administrator  
Donna F. Owen, Clerk to Council

Committee Reports

- a. Education, Recreation, Health, Welfare and County Planning

The Committee met at 7:00 PM, Monday August 16<sup>th</sup>, 2004, in the Main Conference Room with Committee Chairman London presiding. Committee member Patten was absent.

Staff: Alan Ours, Administrator  
Lynn Fisher, Assistant Administrator  
Donna Owen, Clerk to Council  
Ashley Harris, Research Analyst

Steve Grant, Purchasing Director  
 Mark Bassett, Planning Director

Others: Steve Pelissier, Planning Service Director, ACOG  
 Members of Rollingwood Estates  
 Andy Ballard, Developer

Item		Report
21	Offer from Duke Power to lease the Warpath Access and Crowe Creek Access areas Retain on log 1/6/03	The Committee reviewed proposed plans for the Development of Warpath Landing.  The committee approved the concept of this type of development and instructed staff to move forward with negotiations.  <u>Approved</u>
40	Ordinance, 343 to define and regulate automobile towing storage and recovery yards in the unincorporated areas of Pickens County, South Carolina. 1 <sup>st</sup> reading 03/01/04 2 <sup>nd</sup> reading 08/02/04 ph 08/02/04  Council request committee to review before third reading.	Committee recommends the following amendments before third reading.  See attached report (amendments highlighted)  <u>Approved.</u>

1. **Suggestion to apply Covering requirements to existing non-conforming yards.**  
**(Committee Action: the Committee voted to adopt Alternative 2., Apply the Covering Requirements to Vehicles Brought to a Non-Conforming Yard Subsequent to the Adoption of the Ordinance)**

- A. Compliance within 3 months. Any non-conforming automobile towing storage and recovery yard shall be brought into compliance with the following regulations within 3 months of the adoption of this Ordinance.
  - 1. The records requirements in Section 5.C.
  - 2. **The covering requirements in Section 5.E.**

SECTION 7: EXISTING NON-CONFORMING AUTOMOBILE TOWING STORAGE AND RECOVERY YARDS IN EXISTENCE PRIOR TO THE ENACTMENT OF THIS ORDINANCE

- A. Exclusion. Any existing non-conforming automobile towing storage and recovery yard on a lot of record that was legally established and in operation prior to the adoption of this Ordinance shall be exempt from the following requirements of this ordinance:
  - 1. Minimum lot requirements pursuant to Section 5.A.
  - 2. Access restrictions pursuant to Section 5.B.

3. The covering requirements in Section 5.E, **for vehicles located in the yard prior to the adoption of this ordinance. Any vehicle brought to or initially located in the yard subsequent to the adoption of this ordinance shall comply with the covering requirements in Section 5.E.**
4. Suitable terrain requirements pursuant to Section 6.C.

2. **Suggestion to require that all heavy equipment and commercial vehicles utilized in connection with the operation of a yard be kept within the required fence. (Committee Action: the Committee voted to include the suggested text as well as adding the following text: “Vehicles delivered to the yard must be placed within the enclosed area during the advertised hours of operation for the towing business, and if there are no advertised hours of operation then the following applies...”**

1. Enclosure. Every automobile towing storage and recovery yard must be enclosed on all sides by a fence not less than six (6) feet in height and of a sufficient height to hide from view all vehicles stored therein. All stored vehicles must be placed within the enclosure. Vehicles delivered to the yard must be placed within the enclosed area, except that vehicles delivered after 5:00 PM on a weekday or at any time on a Saturday, Sunday, or legal holiday recognized by Pickens County must be placed within the enclosed area by 9:00 AM of the following morning, or by 9:00 AM of the following Monday morning, if the vehicle is delivered on a Friday after 5:00 PM or any time on a Saturday. **In addition, any commercial vehicles, tractors, and other heavy equipment used in association with the automobile towing storage and recovery yard must be parked or located within the fenced area. Such vehicles and other heavy equipment shall not be parked, maintained or stored outside of the fenced area.**

Note: The Non-Conforming Use provision allows twelve months for the yard to come into compliance with the fencing requirements.

**Committee did not vote, but thought this should be brought before the entire Council**

3. **Suggestion for the Non-Conforming Use provision to terminate if a yard changes ownership.**

As written, the draft ordinance provides non-conforming use protections to any existing non-conforming automobile towing storage and recovery yard on a lot of record that was legally established and in operation prior to the adoption of Automobile Towing Storage and Recovery Yard Ordinance. The legally non-conforming status remains in effect as long as the use is not discontinued or abandoned for a period of at least ninety days. If a yard is expanded, the portion in existence at the time the ordinance is adopted retains the non-conforming use status. A suggestion was made at the County Council meeting to terminate the non-conforming use status for a yard for which ownership is transferred.

A concern raised by this suggestion is that while the law clearly allows for the elimination of non-conforming uses over time, the provision making the termination of the non-conforming status based on the transfer of the parcel would be unique. Although the Appalachian Council of Governments does not see anything in the law and cannot find legal history to suggest that the county cannot do this, ACOG staff also is not aware of any local ordinances with such a provision, and is not aware of any case law establishing that it is legal. Because of the Constitutional guarantee of equal protection under the law, if such a provision is included in the

ordinance, the county would have to be able to show how the transfer of ownership is so significant that it affects the impact of the yard on the surrounding area.

Should County Council choose to accept this suggestion, the language below would implement it.

Section 7.D Termination or Modification of Non-conforming Status.

The following activities or occurrences shall result in the discontinuance of non-conforming Status. If non-conforming status is terminated, then any re-establishment of the use must be made in full compliance with the requirements of this Ordinance.

1. Discontinuance. Non-conforming uses are not reestablished after discontinuance or abandonment for a period of 90 days.

**\*for Council consideration**

**2. Transfer of Property. Non-conforming use status will terminate if the parcel upon which an automobile towing storage and recovery yard is located transfers ownership, or if a partnership, company, corporation, or any other legal entity that owns the parcel upon which an automobile towing storage and recovery yard is located transfers ownership, except that if a parcel upon which an automobile towing storage and recovery yard is located is owned by more than one person upon the date of adoption of this ordinance, or if a yard is owned by a partnership, company, corporation, or other legal entity that is owned by more than one person, then the non-conforming use status shall not be terminated if transfer of ownership is made solely among persons having ownership upon the date the ordinance is adopted.**

3. Enlargement. If a non-conforming use is expanded or enlarged, the new or expanded area shall be subject to all provisions of this ordinance.

b. Justice and Public Safety.

The Justice and Public Safety Committee met in the Main Conference Room at 6:00 PM on August, 25, 2004. All Committee Members were present, with Committee Chairman Norman Langston presiding.

Other Council Members: Jimmy Patten

Staff:

Alan Ours, Administrator  
Lynn Fisher, Assistant Administrator  
Donna Owen, Clerk  
Ashley Harris, Research Analyst  
Don Evett, EMS Director  
David Day, Tax Assessor  
Members of the Vineyards Fire District  
Members of the Six Mile Fire District  
Citizens interested in the Tax Assessor Web-Site

Item	Description	Report
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13	Request to do a EMS study		<p>Committee recommends to continue with the plans as proposed in the budget, to build an EMS station for the Six Mile area.</p> <p>Committee also recommends continued study with other areas in need of EMS stations.</p> <p><b><u>Approved</u></b></p>
14	Consideration to review the current release of real property data on the county website.		<p>Committee recommends the photographs stay removed from the Tax Assessor's web-site, and to conduct further study concerning other web-site information.</p> <p><b><u>Approved.</u></b></p>
15	Consideration to consider a request to build a sub-station for the Six Mile Fire District to serve new residential communities in the District		<p>No action, the Six Mile Fire District will consult with developers in order to bring proposals back to the committee.</p>

Motion Period and New Business

Request to add to executive session, receive legal advice regarding existing litigation.

**Approved.**

Consideration of First Reading of an Ordinance to amend the Budget Ordinance for Fiscal Year 2004/2005.

It has been normal and customary in the past few years for County Council to approve an amendment to the budget ordinance towards the end of the fiscal year. The budget amendments in the past have accounted for changes in the budget that occurred during the year that were unanticipated at the time the original budget was adopted by Council. The Finance Director is requesting for Council to consider approving budget amendments throughout the year rather than having one large budget amendment at year-end. This will provide better administration of changes to the original budget document throughout the year. First reading of the proposed ordinance is recommended. It is also requested that this matter be referred to the Administration and Finance Committee.

**Approved.**

Consideration of First Reading of an Ordinance to amend Ordinance No. 298, to amend Sections 8-1 and 8-2.

**Approved.**

Second Reading of Ordinance No. 344 to amend Ordinance No. 333, Section 1-17, to add the following text: (d) Roadways for multiple phase subdivisions shall not be considered for acceptance into the County maintenance system until the time when no further roadway construction leading from such roads will take place.

**Approved.**

Third Reading of Ordinance No. 343, to Define and Regulate Automobile Towing Storage and Recovery Yards in the Unincorporated Areas of Pickens County, South Carolina

**Approved.**

Third Reading of Ordinance No. 342, Authorizing the Assignment and Transfer to Honeywell Nylon LLC of that Certain Lease Agreement Between Pickens County, South Carolina, And Honeywell Nylon Inc. (As Assignee And Transferee of BASF).

Honeywell Nylon is changing their business form from a corporation to a limited liability company, and the attached ordinance authorizes the transfer of their existing FILOT for their Clemson plant from Honeywell Nylon Inc. to Honeywell Nylon LLC, and leaves the FILOT otherwise unchanged.

**Approved.**

Consideration to approve Intergovernmental agreement between Pickens County and the Cities of Central, Liberty and Norris for the provision of animal control services.

The proposed agreements have been approved by the Cities and set forth the services that will be provided by Pickens County. The County Attorney has reviewed and approved the content of the agreement. Approval of the proposed agreements is recommended.

**Approved.**

Consideration to approve millage levy for fiscal year 2004-2005.

During the development of the budget for fiscal year 2004-2005 an estimate was developed for the required millage. Final assessed values are not received until the August timeframe for the actual millage to be established. Council action will be needed at the September 7, 2004 meeting to establish the millage.

**Approved.**

Consideration of a request from Hardaway Concrete Company for financial assistance to improve a County Road.

Hardaway Concrete Company has purchased property next to the Bes Pac Recycling Center to build a concrete plant. The plant will initially employ seven people and average \$12.50 per hour plus benefits. The road leading to their site location is a county road and serves as the access road to the recycling center. The road has been upgraded from Highway 183 to the recycling center. The road will need to be upgraded from the recycling center to the site of the concrete plant to handle the weight of the concrete trucks. The cost to upgrade the road with concrete is \$29,250.00. The company has stated that they will donate the concrete, which is valued at \$17,250.00 if the county pays the remaining cost of \$12,000.00 to upgrade the road. Road fee funds are available to upgrade the road with Council approval. The project is still subject to approval from County Planning and Building Codes.

**Approved.**

Consideration to provide authorization to accept a Consent Order from the South Carolina Department of Health and Environmental Control (DHEC).

DHEC has issued a consent order for the Liberty-Roper Wastewater Treatment Facility. DHEC claims that the facility failed to comply with the effluent discharge limits for ammonia-nitrogen, total aluminum and chronic toxicity. The amount of the fine is \$29,700.00. Measures are being taken by the Public Service Commission to develop a corrective action plan in response to this consent order.

**Approved.**

Consideration to approve a new agreement between the Pickens Area Fire Protection District and the City of Pickens.

The Pickens Area Fire District has negotiated a new contract agreement with the City of Pickens. The agreement provides for increases in the fire fees annually until 2008. Between 2008 and 2014 increases in fire fees are subject to review, but shall not increase by more than 5% each year. During the budget process for fiscal year 2005 County Council approved an increase in fire fees for the Pickens District. However, in accordance with the ordinance that established the Pickens Fire District County Council must approve all agreements of the district. Approval of the new agreement is recommended.

**Approved.**

Consideration to declare voting equipment surplus property.

The Pickens County Registration and Election Commission voted to accept new electronic voting equipment from the State of South Carolina for the November 2, 2004 elections. South Carolina has been provided with Federal funds to purchase electronic voting equipment for counties. Pickens County will receive new state of the art voting equipment at no cost to the county, which will be used in the November 2004 General Election. The new equipment will replace voting equipment that was purchased in 1999. In an effort to pay off the debt of \$364,138 on the existing equipment, approval is requested to declare 250 voting panels and 52 printers surplus property. With Council's approval the County Purchasing Director will attempt to market the old voting equipment.

**Approved.**

Consideration of a request to approve the receipt of a long term operating support grant to the Pickens County Museum of Art & History from the South Carolina Arts Commission.

The museum's application, one of 95 submitted from institutions statewide, was rated at a 95 percentile, the highest rating of all applicants for this three-year cycle. The Grant totaling \$10,556 for FY 05, and percentile amounts based on State Appropriations for FY 06 & 07 requires a 3 to 1 match. Existing operating expenses previously appropriated by council do qualify for those matching funds, requiring no additional funds from council.

**Approved.**

Consideration of a grant award from the Federal Aviation Administration to rehabilitate the runway and apron at the Pickens County Airport.

Pickens County has been awarded a grant in the amount of \$1,010,800 to rehabilitate the runway and apron at the airport. Official acceptance of the grant award by Council is needed. Matching funds for the grant have been included in the 2005 fiscal year budget.

**Approved.**

Consideration of a grant award from the South Carolina Department of Commerce to rehabilitate the runway and apron at the Pickens County Airport. Pickens County has been awarded a grant by the Federal Aviation Administration in the amount of \$1,010,800 to rehabilitate the runway and apron at the airport. The South Carolina Department of Commerce (SCDOC) has agreed to provide \$26,600 in matching funds for this project. Official acceptance of the SCDOC grant award is needed by County Council.

**Approved.**

Appointments to Boards and Commission.  
Accommodation Tax Committee. Pat Mulkey, Accommodations Tax Board.  
**Approved.**

Approval of the Consent agenda  
**Approved.**

Approval of Minutes from August 2, 2004

Consideration of proposed extension of sewer service to serve new industry in the Pickens County Commerce Park. Additional sewer service is needed in the Commerce Park to serve new industry. A proposed plan is being developed that will need to be approved by County Council. It is requested that this matter be referred to the Public Service Committee.

Executive Session:  
**Approved.**

Consideration of Information Related to the Recruitment of an Industry to the Pickens County Commerce Park  
Receive information related to the proposed sale of county property  
Personnel Matter

Adjourn  
**10:42 PM**