

# RICHLAND COUNTY COUNCIL

## SOUTH CAROLINA



## RULES AND APPOINTMENTS COMMITTEE

November 17, 2015  
4:00 PM  
4<sup>th</sup> 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. Malinowski called the meeting to order at approximately 4:02 PM

### APPROVAL OF MINUTES

**November 3, 2015** – Mr. Malinowski brought to the Clerk's Office attention that he and not Mr. Manning seconded the motion to adopt the agenda.

Mr. Malinowski requested clarification of the motion regarding the Terms of Service – Eligibility Requirements after Two Consecutive Terms.

Mr. Malinowski moved, seconded by Ms. Dixon, to reconsider the portion of the minutes regarding the Terms of Service. The vote in favor was unanimous.

Ms. Dixon moved, seconded by Mr. Malinowski, to approve the minutes as corrected. The vote in favor was unanimous.

### ADOPTION OF THE AGENDA

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

### ITEMS FOR DISCUSSION

- a. **Determine if an act that amended Section 27-2-105, Code of Laws of South Carolina, 1976, approved in June 2014, is a violation of Home Rule.**

**Background: The above amended bill gives the State the authority to change county boundaries with no input from the county/counties being affected. This could have a tremendous financial impact on a county by the transfer of millions of dollars of property from one county to another or even changing county line to put property in a neighboring county to assist with economic incentives for a new business.**

**I also question why the Richland County Lobbyist did not make Richland County aware of this bill as it proceeded at the state level?**

#### Committee Members Present

Bill Malinowski, Chair  
Julie-Ann Dixon

#### Others Present:

Kelvin E. Washington, Sr.  
Kimberly Roberts  
Michelle Onley  
Amelia Linder  
Daniel Driggers  
Brad Farrar  
Geo Price

## Rules & Appointments Committee

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**Currently the Richland County/Lexington County line is being looked into for change and neither county has requested this change or disputed the lines. (See 10-4-15 Tim Flach article in The State for some details). [MALINOWSKI]** – Mr. Malinowski stated the amendment reads as follows: “...to authorize the South Carolina Geodetic Survey to clarify county boundaries and disputes between counties by providing a procedure allowing the South Carolina Geodetic Survey administratively to adjust county boundaries.”

Mr. Malinowski further stated there is an incidence occurring now between Lexington and Richland County. Staff has stated there has been no dispute from either county.

Further down in the legislation it states, “...affected parties may file a request for a contested case on these adjustments to the Administrative Law Court...” which is after the fact and causes a citizen and/or government agency to go through a lawsuit process and incur additional costs.

Mr. Malinowski feels the most egregious portion of the legislation states, “...nothing contained in this administrative process restricts the authority of the General Assembly by legislative enactment to adjust or otherwise clarify county boundaries by legislative enactment.”

The legislation takes the authority for county boundaries out of the County’s hand and giving it to the State. There are potentially millions of dollars of property at stake, which could in turn affect the County’s bonding rate.

Mr. Farrar stated the boundaries of the County are a constitutional matter and the legislature can define the various boundaries.

According to Statute 27-2-105, it can affect the governing body of the County, elected officials, property owners, persons residing in said County, etc. Those entities would have standing to bring a lawsuit in Administrative Law Court, which could then be appealed to the Court of Appeals. There is a legal process to go through, so it would not be the SC Geodetic Survey that has the final say.

Mr. Malinowski stated for approximately a year the SC Geodetic Survey has been discussing with Lexington County a potential boundary change. However, Ms. Carter in GIS was not aware of it.

Mr. Farrar stated if there has not been a determination by this group, the best way to deal with it would be a preemptive challenge to their authority and bring a declaratory judgment action.

Mr. Farrar further stated the State Constitution, Article VII stated the following: “The General Assembly shall have the power to alter County lines at any time: Provided, That before any existing County line is altered the question shall be first submitted to the qualified electors of the territory proposed to be taken from one County and given to another...” Essentially this would allow for a referendum.

Mr. Malinowski moved, seconded by Ms. Dixon, to direct the County Attorney’s Office to report out to Council the cited statute may be in conflict with the State constitution. The vote in favor was unanimous.

- b. Direct staff to update Richland County Code of Ordinances; Chapter 26, Land Development; Article VII, General Development, Site, Standards; Subsection (B), to address the height of fences and walls when located in the required side and rear yards. Currently there are no standards. [MALINOWSKI]** – Mr. Malinowski moved, seconded by Ms. Dixon, to approve and forward to the Planning Commission’s January meeting. The vote in favor was unanimous.

- c. **Terms of Service – Eligibility Requirements after Two Consecutive Terms** – Mr. Malinowski stated at the last meeting Ms. McDaniels stated she had been approached by one of the boards that Council appoints members to about Council holding off on appointments until February. Delaying the appointments would allow individuals currently serving, but who have served two consecutive terms.

Mr. Malinowski moved, seconded by Ms. Dixon, to maintain the interview and appointment process for boards, commissions and committees. The vote in favor was unanimous.

### **ADJOURNMENT**

The meeting adjourned at approximately 4:19 PM.

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