



## Richland County Council

REGULAR SESSION  
June 16, 2020 – 6:00 PM  
Via Zoom Meeting

**COUNCIL MEMBERS PRESENT:** Paul Livingston, Chair; Dalhi Myers, Joyce Dickerson, Calvin “Chip” Jackson, Gwen Kennedy, Bill Malinowski, Jim Manning, Yvonne McBride, Chakisse Newton, Allison Terracio and Joe Walker

**OTHERS PRESENT:** Michelle Onley, Kimberly Williams-Roberts, Ashiya Myers, Ashley Powell, Angela Weathersby, Leonardo Brown, John Thompson, James Hayes, Michael Niermeier, Dale Welch, Kyle Holsclaw, Tiffany Harrison, Clayton Voignier, Jeff Ruble, Mike King, Randy Pruitt, Larry Smith, Jennifer Wladischkin, Dwight Hanna and Brad Farrar

1. **CALL TO ORDER** – Mr. Livingston called the meeting to order at approximately 6:00 PM.
2. **INVOCATION** – The Invocation was led by the Honorable Calvin Jackson
3. **PLEDGE OF ALLEGIANCE** – The Pledge of Allegiance was led by the Honorable Calvin Jackson
4. **APPROVAL OF THE MINUTES**
  - a. **Regular Session: June 2, 2020** – Ms. McBride moved, seconded by Ms. Terracio, to approve the minutes as submitted.

Mr. Walker stated, for the record, for items 5-16(a) he was dropped off of the Zoom meeting, and unable to log back in. Therefore, he was not able to vote on these items. He would like for the minutes to reflect that he was not present.

Ms. McBride moved, seconded by Mr. Walker, to approve the minutes as corrected.

In Favor: Malinowski, Dickerson, McBride, Livingston, Terracio, Walker, Kennedy, Manning, Jackson, Myers and Newton

The vote in favor was unanimous.

- b. **Special Called – Budget 3<sup>rd</sup> Reading: June 11, 2020** – Mr. Hayes stated staff is requesting clarification on four (4) items. The first deals with Mr. Jackson’s motion, which indicated, from that point forward, the items voted on would fall under the current year’s funding level. There were questions as to whether Mr. Jackson’s motion included rollover of the Conservation funding.

Mr. Jackson stated, he believes, it was established that it was not a part of his motion. His position, with regards to the rollover Hospitality Tax was stated earlier, and he does not want to rehash it. He is willing to support the will of the intent. He thought it was clear that we would not change the dollar amount for the allocations, even though the projects might be different.

Mr. Livingston stated, for clarification, Mr. Jackson's motion regarding Conservation was more so the amount.

Mr. Jackson responded in the affirmative.

Mr. Hayes stated he is not talking about the dollar amount for the committee recommendations for Conservation and Neighborhood, which is a separate question. Mr. Voignier was inquiring about some current year grants that would be rolling over. The question is, was those rollovers approved by Council. We also need clarification on whether the motion said the FY21 recommendations were to be kept at the current level or the recommended level on the motions list.

Mr. Jackson stated there was a motion by Mr. Manning to rollover the funding. He is not sure where the uncertainty is.

Mr. Manning responded his initial intention was clearly to rollover all the Hospitality Tax funding. The funding attached to the Council members, and all the funding in the current year for agencies/organizations. When discussion came about Conservation, he did not have any concern about it, but clearly his motion, and intention, at the beginning of the conversation, was about the Hospitality Tax.

Mr. Jackson stated his substitute motion, which Ms. Terracio offered a friendly amendment on, in regards to a reduction in the Council member's Hospitality Discretionary funds. He accepted the friendly amendment and suggested a 50% reduction.

Mr. Livingston stated he thought the rollover included all the grant funds. The next issue is going to be the amounts Mr. Hayes referred to.

Mr. Hayes stated, for clarification, Mr. Manning's motion took care of Hospitality Tax, and Mr. Jackson's substitute motion accepted Ms. Terracio's friendly amendment to rollover Conservation. Therefore, all grant rollovers are approved.

Mr. Jackson responded in the affirmative.

Mr. Hayes stated, for further clarification, the Council member's individual H-Tax allocations, which totals \$1,813,350, will now be reduced to \$906,675.

Ms. McBride stated Ms. Terracio's amendment was to reduce this year's Hospitality Tax discretionary funds for Council. We have rollover funds in the Hospitality Tax discretionary funds, which was a part of the rollover.

Mr. Hayes responded the \$1,813,350 will be reduced by 50% for FY21. The next clarification are in reference to items related to the General Fund (i.e. Lump Sum, Discretionary Grants, Contractual/Statutory and the Chamber of Commerce – BRAC). He stated those items will be held until Council takes up the General Fund Budget Amendment in September. Therefore, instead of notifying groups in July, the earliest groups can receive funding is either late September/early October. They wanted to verify that it was Council's intent to hold those funds until the General Fund Budget Amendment is taken up in the Fall.

Mr. Livingston responded he does not believe that was the intent. It would be October before these organizations could begin receiving their funding. He inquired if that means the fiscal year will start on July 1, but no funds would be appropriated before October.

Mr. Hayes responded that is the understanding he got from reviewing the minutes. Those items would be taken, and given final decision in September. Therefore, the earliest we could make a disbursement would be late September, after Third Reading on September 17<sup>th</sup>.

Mr. Jackson stated, when he began the discussion, he was talking about making sure we did not over commit ourselves financially. Therefore, because we could not do a continuing resolution, he made a motion and asked that whatever funds were currently being received, that those funds would continue to be received until, we could get back firmer numbers in September, not that no funds would be released. No increases would be given, until we have a clearer picture, and making sure we do not overextend ourselves financially. He does not know why this is becoming so confusing tonight. From his understanding, it was simply a matter of making sure that we did not extend beyond where we are currently at, until we had hard numbers in September.

Mr. Hayes stated the Lump Sum groups FY21 amount will be higher than the 10% reduction recommended by staff. Their allocation would be based off the current year amount, at the full amount, as opposed to the reduced amount.

Mr. Livingston stated the organizations need to understand that the amounts will be revisited.

Mr. Hayes stated the Discretionary Grants Committee groups changed, but the amount did not. As it relates to the Contractual/Statutory, the CMCOC's statutory amount has to be higher, but we will keep them at the current year level until the final decision is made in the Fall.

Ms. Newton stated, when it comes to the Lump Sum Appropriations, she thought we were not approving those until after we settled the General Fund, and not disbursing funds. In fact, if we did, not only are the amounts not reduced by 10%, but it will require us to take over \$1M from the General Fund to pay for it. When she was voting, she was voting with the idea that we were not going to be disbursing those Lump Sum Appropriations until September. If the rest of Council felt differently, it still passes.

Mr. Livingston stated he thought we were doing it this way because before we review the amounts again, the groups will only be able to receive ¼ of their funding.

Mr. Hayes stated the rule is, if you are receiving less than \$25,000, you can request all of it at one time. If you receive anything greater than \$25,000, it must be disbursed quarterly.

Ms. Newton stated, for clarification, there are a lot of organizations that could request in the first quarter, before we come back to revisit the budget.

Mr. Hayes responded he does not have the list in front of him, but he believes most of the groups are above the \$25,000 funding level.

Ms. McBride stated her understanding was the same as the Chair's understanding, and that we knew there were some groups that needed the small amount of funding they would get. Then in September we would review the funding, and make the corrections, based on the status of our financial abilities.

Mr. Manning stated, for him, he understood it the way Ms. Newton understood it. However, nobody, at that time, said anything about half the funding, and half the funding. If they had said that, he would have been favorable of the way the Chair understood it. He would be in favor of giving them the first half of their money now, with them understanding there may be a 20% cut

halfway through the year. However, they would know that was coming, based on the action we take in September. He stated if there are six (6) people that agree with Chairman Livingston and Ms. McBride, then he is good to go. If a majority understands it the way he and Ms. Newton did, then before we clinch the minutes, he would like to support Mr. Livingston and Ms. McBride's understanding of the motion.

Mr. Jackson stated, you might recall, Mr. Farrar got on the line, when the question was raised, whether we could, at any point, go back and revise or amend the budget. Mr. Farrar said that we could at any time, so my understanding, based on those comments was, if we gave funds in July, and realized in September, we needed to make adjustments that we were within our legal right to do that, and we would put those agencies on notice to that effect.

Mr. Hayes stated there are some other Lump Sum groups in other funds (i.e. Stormwater and Solid Waste). It is his understanding that all groups the County gives grant funds to would be at the FY20 funding level, and will be eligible to receive those funds.

Mr. Livingston responded in the affirmative, with the understanding that Council is going to review the funding level in September.

Mr. Hayes stated, the reason that question comes up, is because you have the General Funds groups, but you also have other groups in other funds that will not be entertained in September. For clarification, is it only the General Fund groups who are being limited to the FY20 allocation, and the other agencies will receive what was recommended for FY21?

Mr. Livingston requested, for clarification, that Mr. Hayes separate the funding categories out

Mr. Hayes responded the Neighborhood Redevelopment, Conservation Commission, and Lump Sum groups that are in the following funds: Temporary Alcohol, Solid Waste and Stormwater. Those groups are non-General Fund, and they have requested amounts or committee approved amounts for FY21. He wants to ensure it is Council's intent for these groups to receive the committee's recommendations, or what they requested, for FY21, since they are not General Fund related.

Ms. McBride stated we are holding everything at FY20.

Mr. Livingston responded part of the problem is that we cannot hold everything at FY20 because some things are different.

Ms. McBride inquired how the ones that are different got on the motions list.

Mr. Hayes responded the Conservation Grants and Neighborhood Redevelopment are one-year grants, so that is why voted on millage agencies and grants. Grants are not a part of the two-year allocation. All we need to do is clarify Council's intent for non-General Fund groups.

Ms. McBride stated, for clarification, it would have to be the FY21 amount, but the total budget amount, for those categories, were from FY20.

Mr. Hayes responded Council voted on the Conservation Commission and Neighborhood Redevelopment's total budgets, so the budget amounts will not change. The amount of the committee's recommendations did change.

Mr. Walker inquired if we need to reconsider this matter.

Mr. Livingston responded right now we are trying to clarify the motion. It may require reconsideration, but there is nothing to reconsider if we are not clear on it.

Ms. McBride inquired as to what Mr. Hayes's interpretation of the motion was.

Mr. Hayes responded he was under the impression that Council was approving FY21 for the non-General Fund amounts, at the FY21 amounts versus FY20 amount, because they were non-General Fund related.

Mr. Walker stated, for him, and the way he was voting, his intent would have been that these entities, as outlined by Mr. Hayes, are funded at the lesser of the FY20 amount or the FY21 recommended amount, until September, at which point we will have a better forecast. If that needs to come forward as a reconsideration of the previous item, and to make a new motion, he is willing to put that forward, but only if it is the will of the body.

Mr. Livingston noted we were moving okay until we got to the non-General Fund items. We were in agreement with the other items. The intent was to move forward at last year's amount, with the understanding that we would revisit it in September.

Mr. Hayes stated everything related to the General Fund will remain at FY20, but he needs clarification on the non-General Fund items.

Mr. Livingston stated, if someone wants to reconsider that portion of the minutes, regarding the non-General Fund items, he will accept that motion, since there is no clarity on that.

Ms. Terracio requested, for clarity, could staff direct Council to the page of the minutes that we are considering.

Mr. Hayes responded it is Items 20 - 22 and 26 – 28(a).

Ms. Terracio stated, for clarification, these items are not General Fund items.

Mr. Hayes responded in the affirmative.

Ms. Terracio inquired what fund(s) are these items.

Mr. Hayes responded they are Conservation Grants, Solid Waste Enterprise Funds, Stormwater and Temporary Alcohol Funds.

Mr. Walker moved, seconded by Mr. Jackson, to reconsider Items 20-22 and 26-28(a) on the aforementioned minutes.

Mr. Malinowski inquired, if we do not reconsider these items, what are Mr. Hayes' plans for these groups.

Mr. Hayes responded if your intent is for us to keep all items at the current FY20 level, for General Fund, and non-General Fund, until you revisit it.

Ms. McBride stated, whatever Mr. Hayes' understanding of the intent was, is what we should be proceeding with.

Ms. D. Myers suggested, given the level of confusion, that we take up the motion and clarify what instruction we would like to give the staff. She is not sure that Mr. Hayes can define what it is we intend, which is why he brought the question back.

Mr. Manning stated, he understands the question about intention, but he thinks Mr. Malinowski has asked a good question, and a clear question. Not what does anybody thinks anybody's intention is, was, or might be. The question is, if we do nothing at this point, but approve the minutes, as they are presented, what action would Mr. Hayes take.

Mr. Hayes stated that is the whole point. He needed clarification of what the intent of Council was. He is not in the position to do anything without knowing what the intent of Council was. What he is unclear on is what Council would like to do with the non-General Fund items.

Mr. Manning stated, if we pass this tonight, there will be no action taken.

Mr. Hayes responded he would not want to go forward in an area, which he is not sure what the will of Council is.

Ms. McBride inquired if Mr. Walker made a motion.

Mr. Walker responded he made a motion for reconsideration because it is abundantly evident that staff needs further direction, and clarification, on the will of Council. He thinks it unfair to attack a staff member, and try to deduce what they think, or interpret the will of this body is, when they have clearly come to us and said they need further clarification.

Ms. McBride inquired how reconsidering these items help Mr. Hayes.

Mr. Livingston responded, once we reconsider the items, we will take a vote on it, and the vote will clarify the intent.

Mr. Walker noted, if you vote to reconsider these items, it will open the door to put a new, clean motion on the table.

In Favor: Malinowski, Dickerson, McBride, Livingston, Terracio, Walker, Kennedy, Manning, Jackson, Myers and Newton

The vote in favor of reconsideration was unanimous.

Mr. Walker moved, seconded Ms. Terracio, to approve Items 20-22 and 26-28(a) at the lesser of the FY20, or the FY21 committee recommended funding level.

Mr. Jackson inquired if Mr. Hayes is clear on the motion on the floor.

Mr. Hayes responded he is clear on the motion.

Ms. Dickerson requested clarification on Mr. Walker's motion.

Mr. Livingston responded the motion is to fund the items at the lesser of the two (2) years.

Ms. Dickerson inquired about what amount that would equate to.

Mr. Hayes responded for the Community Conservation Grants the amount approved for FY20 was \$80,000. The amount on the motions list was \$40,439, so the FY21 recommended amount is less than the FY20 amount.

Ms. D. Myers requested Mr. Hayes to provide the areas where there is great discrepancies.

Mr. Hayes stated he would not have that level of detail. Those details would have to come from Mr. Voignier.

Mr. Voignier responded there would be a discrepancy with the Historic Preservation Grants. Because of the lower amount that was recommended for the Community Conservation Grants for FY21, the FY20 amount was \$170,000, whereas the FY21 amount is \$207,000. There would not be a huge discrepancy in regards to the Neighborhood Redevelopment Fund. Last year's funding was \$80,000, and this year's is \$77,000.

Mr. Livingston inquired as to staff's recommendations on these non-General Fund items.

Mr. Voignier responded staff's recommendations were based on the committee's recommendations.

Mr. Livingston made a substitute motion, seconded by Mr. Manning, to move forward with staff's recommendations for the non-General Fund items.

**POINT OF CLARIFICATION** – Mr. Walker stated, as he understood Mr. Voignier, he believes the substitute motion created some redundancy. He believes Mr. Voignier said the FY21 committee recommendations are in concert with the FY21 staff recommendations.

Mr. Voignier responded what the committees recommended, internally, is what was put forward on the motions list, and would be staff's recommendation.

Mr. Livingston stated Mr. Walker's motion would be either FY20 or FY21 funding amounts. Some of those would not be the staff's recommendations.

Mr. Walker stated, for clarification, the substitute motion removes the lesser of FY20 or staff's recommendation.

Mr. Livingston responded he was moving the staff's recommendations forward. The amounts may be higher or lower, but whatever staff's recommendation was because he does not know the impact of the numbers like staff does.

Mr. Malinowski inquired as to when the recommendations were made by the committee(s).

Mr. Voignier responded he believes it was during the yearly grant review process that takes place in the February timeframe.

Mr. Malinowski noted we have committee recommendations that took place in February, prior to us getting into the current situation where we are requesting everyone to make cuts. If they had been in the situation, those amounts would likely not be the committee recommendations, nor staff's recommendations. He believes it is only fair, since we have asked all other agencies to take these cuts that they also take a cut in funding, and take the lesser of the two, as mentioned in Mr. Walker's motion.

Ms. Terracio inquired if these items would be subject to consideration in the Fall.

Mr. Livingston responded that is what he thought the intent of the original motion was, and would be the intent of his substitute motion.

Mr. Malinowski requested a response from Mr. Voignier about whether staff usually takes the committee recommendation, and if so, if the recommendation had come later in the year would they have taken that recommendation.

Mr. Voignier responded in the affirmative.

In Favor: Dickerson, McBride, Livingston, Kennedy and Manning

Opposed: Malinowski, Terracio, Walker, Jackson, Myers and Newton

The substitute motion.

In Favor: Malinowski, Terracio, Walker, Jackson, Myers and Newton

Opposed: Dickerson, McBride, Livingston, Kennedy and Manning

The vote was in favor.

Mr. Livingston noted the following corrections to the minutes:

1. Page 7 – Columbia Museum of Art - \$890,972; Total amount for ordinance agencies is \$1,921,186
2. Page 19 – River Alliance - \$55,000

Ms. Newton requested that her vote on p. 13 of the minutes reflect she was opposed to Mr. Jackson's motion.

Mr. Manning moved, seconded by Ms. Dickerson, to approve the minutes as amended.

Mr. Malinowski noted on p. 13 that Mr. Brown's response to Mr. Walker's question was not recorded, and should be added.

In Favor: Malinowski, Dickerson, McBride, Livingston, Terracio, Walker, Kennedy, Manning, Jackson, Myers and Newton

The vote in favor was unanimous.

5. **ADOPTION OF THE AGENDA** – Mr. Manning moved, seconded by Mr. Walker, to adopt the agenda as published.

Ms. Newton requested the Report of the Employee Evaluation Ad Hoc Committee be added to the agenda.

Mr. Livingston noted Items 13(b) and 14(a): "Authorizing the expansion of the boundaries of the I-77 Corridor Regional Industrial Park jointly developed with Fairfield County to include certain property located in Richland County; the execution and delivery of a Public Infrastructure Credit Agreement to provide for public



infrastructure credits to Washington & Assembly, LLC, a company previously identified as Project Novel; and other related matters” needed to be removed from the agenda.

In Favor: Malinowski, Dickerson, McBride, Livingston, Terracio, Walker, Kennedy, Jackson, Myers and Newton

Abstain: Manning

The vote in favor was unanimous with Mr. Manning abstaining from the vote.

6. **PRESENTATION OF PROCLAMATION**

- a. A Proclamation Naming June 2020 as “Richland Counts” Month – Ms. Roberts read the proclamation into the record.

7. **REPORT OF THE ATTORNEY FOR EXECUTIVE SESSION ITEMS** – Mr. Farrar indicated the following item would be appropriate for Executive Session:

- a. Pending Litigation: Richland County vs. SC Dept. of Revenue
- b. Contractual Matter: Personnel Matter

Ms. McBride moved, seconded by Ms. Kennedy, to go into Executive Session.

In Favor: Malinowski, Dickerson, McBride, Livingston, Terracio, Kennedy, Jackson and Newton

Opposed: Walker and Myers

The vote was in favor.

***Council went into Executive Session at approximately 7:10 PM and came out at approximately 7:53 PM***

Mr. Walker moved, seconded by Ms. Newton, to come out of Executive Session.

In Favor: Malinowski, Dickerson, Livingston, Terracio, Walker, Kennedy, Jackson, Myers and Newton

Opposed: Manning

- a. Pending Litigation: Richland County vs. SC Dept. of Revenue – Mr. Walker moved, seconded by Ms. Terracio, in the mediation, scheduled for Monday, that the legal team of Malane Pike, Andrew Lindemann and Larry Smith; the County Administrator, Leonardo Brown; and the Council Chair, Paul Livingston; be physically present for said mediation, and that a Zoom link be provided to all Council persons to observe any, and all, conversations in which the Council Chair is involved.

Mr. Malinowski inquired, if a Zoom link is provided, and enough Council members wish to attend via the link, will that constitute a quorum, and will public notice of the meeting need to be provided. And, if so, is there time to do so.

Mr. Smith responded, he believes, Mr. Malinowski is correct, in terms of his analysis of what it would mean. He thinks, as he indicated, mediations are typically confidential, and that may present a challenge. He stated he does not know whether or not that can be done. That was one of the things

they were going to look into. In regard to Mr. Malinowski's question, the answer would be yes. If we ended up having a quorum, then you would be subject to the requirements of a public body.

Mr. Malinowski inquired as to what the timeframe for public notice would be.

Mr. Smith responded you could not conduct the meeting in a public forum. It is a mediation. Mediation is conducted in private, and is confidential. He stated that is inconsistent, in terms of what a mediation is.

Mr. Malinowski stated, for clarification, then we cannot have a link, at that point.

Mr. Smith responded, he does not think, you could have a link where you could potentially have all Council members present in the link. You, then, have what basically constitutes a public meeting.

Ms. McBride stated she agrees with attorney. To her, that is inconsistent with the meaning of a mediation. In addition, they would have to speak with the Department of Revenue to see if it okay with them.

Ms. Newton inquired, in the event this motion passed, what would prevent the group from going into Executive Session.

Mr. Smith responded we would have to see what that looks like. One of the reasons we strongly suggested you not have electronic devices in Executive Session is because you really do not know who is on the other end of what is being communicated. Even if you had a Zoom type situation, there could be individuals on the other end of that conversation that would hear the discussion, which is supposed to be confidential, and we would never know that.

Ms. Newton stated, in that event, she offered a friendly amendment to extend the option to be physically present and ensure there are no electronic devices, and ensure the confidentiality of the information you are sharing.

Ms. Terracio stated, she was going to ask a similar question as the one posed by Ms. Newton. She would be supportive of a physical invitation being extended to all members willing to attend.

Mr. Manning stated, procedurally, we would have to call a Special Called Meeting of Council, and then go into Executive Session. Then, go into mediation, because you cannot have the whole body of the mediation doing that. So, technically, that is the way you can get around doing that. He have a commitment on Monday, so he is not excited about the phrase "those willing to attend". Maybe it should be those able, willing and wanting to attend. In terms of the motion specifying Zoom, wherever mediation is being held, if they are willing, and able, to accommodate the Council, they may be using some other platform. Therefore, he does not know that he would specify Zoom, because while all parties may be willing, that may not be platform, and that wording could cause it to not happen.

Mr. Walker stated, he has heard, and is willing, to accept the recommendations of his colleagues to remove the word "Zoom" from his motion, and replace it with either a physical invitation, or whatever electronic means viable from the law firm's perspective. And to also include the language, "willing and able".

Mr. Livingston stated, his concern is, this is a process that we agreed to engage in. Obviously, it is the mediator who sets the rules and parameters. Council voted for mediation, and if we set up

parameters, it might risk the chance of us having mediation, and that should not be the goal of what we are trying to do here. If what we do here, leads to the mediator deciding not to engage and do the mediation that could create some problems for us. That should not be the outcome of this, based on Council's vote for mediation. He requested Mr. Walker to restate the first part of his motion.

Mr. Walker responded he was naming the parties that would be physically present, which would be Malane Pike, Andrew Lindemann, Larry Smith, the Council Chair, and the County Administrator. He then went on to say that other Council persons, who are willing, and able, also be issued a physical invitation, and if not available physically, they be provided whatever secure electronic access the law firm, hosting the mediation, may have.

Ms. McBride requested the opinion of our external attorney regarding Mr. Walker's motion that we open it up, given that it is mediation. She wants the process to be fair.

Mr. Smith responded he believes Mr. Lindemann dropped off the call. In terms of the question, in order to do what is being proposed, the rules require that mediation be confidential. Based on what is being proposed, all of the parties to the mediation would have to waive confidentiality, and potentially attorney-client privilege, for us to do what is being proposed. He stated he does not believe the mediator contemplated that this process would involve a significant portion of the body, in terms of the actual mediation. He believes, what is being asked, at this point, is going to present some challenges, create a situation where we are going to have a hard time maintaining the confidentiality of this process, and potentially get in to a situation where we waive attorney-client privilege over some things that are discussed. He has some concerns about how we proceed with this. Obviously, we would have to see what the mediator has to say about this because he has to manage the mediation between three (3) parties.

Mr. Malinowski stated he cannot support the motion because the mediator has set the ground rules, as far as he understands it. Has requested specific persons to be present, and those are the persons that should be present. It is kind of like somebody got a free ticket to a ballgame, now all of a sudden everybody wants a free ticket to the ballgame. He thinks we are looking at an adversarial relationship with one of the parties in this mediation, and he does not think we need to try to antagonize them any further by asking that a whole herd of people be allowed to join. Be it via electronic means, or in person. At what point and time, would anybody know if that would be allowed? He inquired about the public notice required for a public meeting.

Mr. Smith responded, if it were to be a public meeting, you would have to give at least 24 hours' notice.

Mr. Malinowski stated he does not think we need to push our luck and try to get people down there. No one seemed to go to the meetings before, with the other side. All of a sudden, everyone wants to go. We are all going to get the report back from all the people that are officially there.

Mr. Livingston made a substitute motion, seconded by Ms. Dickerson, to move forward, as described by the County Attorney, with the individuals listed from the onset, to add the County Administrator to the list of attendees, and to ask the mediator whether there is an option for physical or virtual participation for Council members. If the mediator indicates that is appropriate, fine. If not, then no. He believes where we are going now is just an avenue to try to stall mediation from taking place.

Mr. Walker stated, he was going to suggest that he understands the conflict that a virtual presence, of a majority, represents, and amend his motion to remove the portion extending a virtual presence

to Council, and leave it at the persons he named attending, which, in essence, would be replacing the Transportation Ad Hoc Committee Chair with the County Administrator. Even though, for the record, he wholeheartedly believe that full and open transparency, in the process, is what we owe our constituents.

Mr. Livingston inquired if it was the mediator's preference to have more than one Council member.

Mr. Smith responded that is his understanding.

Ms. Newton stated the motion before us is Mr. Livingston's substitute motion, which would take two (2) Council members and the County Administrator. In addition, to ask, if it is possible for other Council members, who want to be physically present, to attend.

Mr. Livingston responded, for clarification, to see if it is possible for Council members to be physically or virtually present.

Ms. Newton inquired if there was a specific reason behind having two (2) Council members.

Mr. Smith responded, in terms of what we got from the mediator, he was looking for Council members that were in a leadership position, but also people who had worked with the Transportation Program. To the extent that Mr. Jackson has been the Chair for more than 12 months, we were trying to make sure that, in identifying the Council members that we were coming as close to what we think the mediator was trying to do, regarding the presence of Council members. In addition, if you recall, one of the things we talked about was what this program looks like going forward, after we get past this particular hurdle. Certainly, it seems to him, those are things that would be of some interest to the Chair of the committee, so he would have some idea about moving the program forward.

Ms. McBride stated she does not know why we are discussing this when we know we have the two (2) most appropriate people to represent Council; the Transportation Ad Hoc Committee Chair and the Chair of Council. She requested a friendly amendment to take out the option to attend the meeting virtually. She wants to listen to what our legal advisor is telling us.

Mr. Livingston accepted removing the option to attend virtually.

Mr. Manning stated, for clarification, the motion, at this point, is to have the attorneys, Ms. Hamm, the County Administrator, the Chair of Council and the Chair of the Transportation Ad Hoc Committee. He noted, for the sake of the public, and transparency, he believes we have discussed everything, in public, that we discussed in Executive Session.

Mr. Manning moved, seconded by Mr. Malinowski, to call for the question.

In Favor: Malinowski, Dickerson, McBride, Livingston, Terracio, Walker, Manning, Jackson, Myers and Newton

The vote in favor of calling for the question was unanimous.

Mr. Livingston restated the substitute motion to move forward with the County Administrator, the Council Chair, Mr. Jackson, Ms. Hamm, and the attorneys to physically attend the mediation.

In Favor: Malinowski, Dickerson, McBride, Livingston and Manning

Opposed: Terracio, Walker, Myers and Newton

Abstain: Jackson

The vote was in favor of the substitute motion.

8. **CITIZENS' INPUT**

- a. For Items on the Agenda Not Requiring a Public Hearing – No comments were received for this item.

9. **CITIZENS' INPUT**

- a. Must Pertain to Richland County Matters Not on the Agenda (Items for which a public hearing is required or a public hearing has been scheduled cannot be addressed at this time.)

1. Mr. Lenston Toland provided comments regarding the County's Noise Ordinance.
2. Mr. Adam China provided comments regarding the Affordable Housing Trust Fund.

10. **REPORT OF THE COUNTY ADMINISTRATOR**

- a. Coronavirus Update – Mr. Brown stated Richland County has experienced an increase in number of positive cases. As it relates to our efforts to determine what criteria would be utilized to provide information to the citizens and Council regarding the reopening of businesses and how we may go safely out in public, in the face of COVID-19, there has been different information shared from various public health officials as to what we should be looking at. If you may recall, there was a discussion that dealt with whether we should be looking at an upward trend, and then a downward trend to make a determination. Recently there have been conversations about positivity rates, and looking at positivity trends. With all of that being said, these are some of the challenges that are being faced by Richland County, as well as our community partners, in determining the best efforts we can make to reopen safely. He has spoken with some of the community partners, and began having conversations about their plans. Some of them will be submitting information to him about their plans for reopening. They have also expressed that any information the County obtains regarding the establishment of criteria be shared with them. Right now, we are all searching for those tools of consistency, and not finding them between the various reporting agencies. As it relates to Richland County, and testing, he had a conversation with both DHEC and PRISMA about additional testing. DHEC communicated they consistently put information on their website about testing areas. He shared with them that there are seven (7) zip codes, within Richland County, whereby the numbers are increasingly higher than other areas within Richland County, and we should increase targeted testing in those areas. He has received an affirmative response, if we could provide them with areas we thought needed to be targeted. They provided criteria they utilize to determine safe places, and places with easy ingress and egress, to get the testing done. While there may be areas Council members identify, we will need to locate places where people can travel in and out effectively, without causing disruption to traffic flow and resource allocations. You may have seen information about the Register of Deeds having a soft reopening. We had members of the public that needed to utilize the office, so hearing those comments and realizing the importance of the office, we were able to put in a process that allows people, on a limited basis and by appointment only, to access the office. The process has been communicated to the public, and we have had individuals to take advantage of the process. You may have seen in the news that Richland County gave out some non-contact infrared thermometers. The thermometers were received from the State by the Economic Development Department for a specific purpose, and had to be distributed to the private sector.

At a previous Council meeting, there was a discussion about Council member(s) being added to the grant relief program. At some point in the future, we need to have Council take up that matter, so grants can continue to be reviewed, inclusive of Council, and awards made.

Mr. Livingston noted, if there are any Council members that would like to serve, send him an email so the appointments can be made.

Ms. McBride inquired if any funds have been sent out.

Mr. Brown responded, at the last Council meeting, Council approved the award list, and the approved list has been provided to the Grants Department.

Ms. McBride inquired about the number of entities receiving funds.

Mr. Brown responded he believes there were 23 businesses.

Ms. McBride inquired about how many applications were received from businesses.

Mr. Brown responded that he did not have that information on hand. He agreed to email the information to Ms. McBride.

Mr. Livingston inquired if there were any services that we are not being able to provide.

Mr. Brown responded the majority of the services significantly impacted are the ones where people have been routinely coming into a physical space, and that we do not have updated IT infrastructure. Also, those processes where you have departments that receive electronic checks and/or payments where individuals can only do so in a limited capacity because they do not have online connectivity, so they would need to come to the County building to drop funds off. We have been able to accommodate some of that, but productivity wise we are operating at about 60%.

11. **REPORT OF THE CLERK OF COUNCIL**

- a. Institute of Government and Annual SCAC Conference: August 1 – 3 – Ms. Roberts reminded Council the Institute of Government and Annual SCAC Conference will be held August 1 – 3.

12. **REPORT OF THE CHAIR** – No report was given.

13. **OPEN/CLOSE PUBLIC HEARING**

- a. Approving the transfer of certain property located in the Blythewood Business Park to Fairfield Electric Cooperative; and other related matters – No comments were provided for this item.
- b. Authorizing the expansion of the boundaries of the I-77 Corridor Regional Industrial Park jointly developed with Fairfield County to include certain property located in Richland County; the execution and delivery of a Public Infrastructure Credit Agreement to provide for public infrastructure credits to Washington & Assembly, LLC, a company previously identified as Project Novel; and other related matters – This item was removed during the Adoption of the Agenda.
- c. An Ordinance Authorizing the temporary waiver of late fees or penalties on the payment of Hospitality Tax, Tourism Development fees, and Business License fees – No comments were provided for this item.

14. **THIRD READING ITEMS**

- a. Authorizing the expansion of the boundaries of the I-77 Corridor Regional Industrial Park jointly developed with Fairfield County to include certain property located in Richland County; the execution and delivery of a Public Infrastructure Credit Agreement to provide for public infrastructure credits to Washington & Assembly, LLC, a company previously identified as Project Novel; and other related matters – This item was removed during the Adoption of the Agenda.
- b. An Ordinance Authorizing the temporary waiver of late fees or penalties on the payment of Hospitality Tax, Tourism Development fees, and Business License fees – Ms. Terracio moved, seconded by Ms. Newton, to approve this item.

Mr. Malinowski stated the wording in Sec. 1 differs from the title. It says, "...Council hereby suspends the imposition, payment, and collection of late fees..." He inquired if that could be misconstrued to mean they do not have to impose a Hospitality Tax.

Mr. Smith responded the intent was to suspend the collection and remittance of those funds, as stated in the ordinance. If we remove the word imposition it will address Mr. Malinowski's concern.

Mr. Malinowski made a friendly amendment to remove the word imposition.

Mr. Manning stated, for clarification, Mr. Smith said the collection and remittance was for three (3) months. From what he is reading on p. 51, it says, "60 days from the effective date." Then, at another point, it says, it goes back to April 7<sup>th</sup>.

Mr. Smith responded the total amount of time was approximately 3 months because we made it retroactive.

In Favor: Malinowski, Dickerson, McBride, Livingston, Terracio, Kennedy, Jackson, Myers and Newton

Abstain: Walker

The vote in favor was unanimous with Mr. Walker abstaining for reasons of potential direct financial involvement.

15. **REPORT OF THE ECONOMIC DEVELOPMENT COMMITTEE**

- a. RFP Results and Recommendations for Speculative Building Developer – Mr. Jackson stated the committee recommended approval of this item.

Mr. Malinowski inquired if there have been unsuccessful endeavors for the selected vendor, and, if so, what percentage and why were they unsuccessful.

Ms. Wladischkin responded she does not believe they were asked to explain any of their instances where they had some failures. She can go back and look through their submittal if they mentioned anything and how they dealt with the adversarial conditions.

Mr. Malinowski stated, under "Cost of Development and Construction", it indicated \$54.69/sq. ft. He inquired how that compares to construction for similar type work.

Ms. Wladischkin responded the structure of the agreement is that the cost of building is under the burden of the contractor.

Ms. Harrison responded the cost of construction was provided by all of the vendors. There was a full review process of all of the different factors. This bidder was the highest ranked bidder going through our full procurement process. The idea now is that we would receive approval to be able to move forward with negotiating acceptable terms with the bidder.

Mr. Malinowski stated, it sounds like, we sell them the property for what we paid, and then we also pay them to build.

Ms. Harrison responded this is a public/private partnership. The idea is that we will negotiate with this particular developer for a fair and balanced deal to these parties. When we structured the RFP, it was that the County would bring the improved property. The builder would build the building, at their costs. Once the building is constructed, we will work together to market the property and secure an end user. At this point, there are some items within their proposal that need to be negotiated, and staff would not recommend proceeding with. They are requesting to have the ability to go back and negotiate with the developer, per the procurement policy. If we cannot get to a satisfactory conclusion with the developer, we would then have the opportunity to go to the 2<sup>nd</sup> ranked offeror, and do the same thing.

Mr. Malinowski stated, on p. 108, it says, "The Offeror understands by executing and dating this document their proposed prices/costs shall hold firm for a period of not less than ninety (90) calendar days after the solicitation award." He stated, for clarification, we have not awarded this, because it was signed more than ninety (90) days ago.

Ms. Wladischkin responded that is standard procurement language. It means that the vendor cannot change any of their conditions until award, and it has not been awarded yet.

In Favor: Malinowski, Dickerson, McBride, Livingston, Terracio, Walker, Kennedy, Jackson, Myers and Newton

Opposed: Manning

The vote was in favor.

Ms. McBride stated, in the future, she would hope the County begins to look at working with businesses that are inclusive, and has diversity.

Mr. Manning stated, for the record, that is why he voted "No".

## 16. REPORT OF RULES & APPOINTMENTS COMMITTEE

### a. ITEMS FOR DISCUSSION/ACTION

1. I move that Richland County disqualify any vendor in its procurement process as a "qualified bidder" if Richland County is currently in any legal dispute, lawsuit or settlement negotiation either individually or jointly named [WALKER] – Mr. Malinowski stated the committee recommended to approve the addition of the following language to subsection 2-261.2(4): "The deliberate failure without good cause to perform in accordance with the specifications of, or within the time limit provided in, a contract, or a recent record of failure to



perform or of unsatisfactory performance in accordance with the terms of one (1) or more contracts need not result in formal claims or litigation by any party to any contractual relationship entailed in this section. Further, the mere fact of litigation is not an event of automatic debarment. Rather, the procurement director shall look at each instance of failure to perform in a timely manner or accordance with contract specifications, or a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one (1) or more contracts to determine if such performance or failure to perform would tend to impact the person's or firm's ability to acceptably perform in the contractual arrangement for which debarment is considered, and the feasibility of the County entering into a contractual relationship with or continuing a contractual relationship with a person or firm whose performance falls under this subsection."

Ms. Newton stated the proposed language specifically names the Procurement Director as the person that manages this process. She does not know that the County has a person specifically titled as the Procurement Director, and did not know if we needed to change the language, or name a general person in the Procurement Department.

Ms. McBride inquired if the committee consulted with Legal.

Mr. Malinowski responded Legal provided this language in response to Mr. Walker's motion.

Mr. Smith responded Mr. Farrar drafted the proposed language.

Mr. Livingston inquired if the proposed language covers things that Ms. Wladischkin can already legally do, under procurement. It does not appear to change anything.

Ms. Wladischkin responded she believes the motion has minor additions regarding litigation. For the most part, the ordinance already states that you can debar a contractor for performance related issues.

Mr. Manning inquired if this will become a question on the application.

Ms. Wladischkin responded she does not know that we have thought that far ahead, and if it will be a question that is asked. We can certainly explore requesting their litigation history.

Mr. Manning stated, on the earlier item, Mr. Malinowski asked if the vendor had any unsuccessful projects, and the answer was, "We do not ask that." He wanted to make sure, since we are working hard to get the language in, that we have a mechanism to inquire about their past experiences.

Ms. McBride inquired, if you had a lot of problems with a contractor, would he/she be allowed to bid. As Mr. Manning said, if there is an issue present, will they have to indicate that on an application?

Ms. Wladischkin responded they are looking at incorporating a formal process for that. Right now, any performance issues, from a contractor, would be handled through discussions and formal notice to cures. What we are looking to incorporate is a supplier evaluation program, which will allow us to take the contractor's performance on our contracts, and weigh that in their future awards.

Mr. Livingston noted the language “the mere fact of litigation is not an event of automatic debarment” is already the case, so how does the proposed language change anything.

Ms. Wladischkin responded she believes the language is there because there could be a company that is in litigation, with the County, for a completely unrelated matter that would have nothing to do with their performance on a contract. There were some caution on Legal’s behalf, with relation to saying carte blanche, anyone in litigation with the County.

Mr. Farrar stated we have contract that universally include dispute resolution provisions, so if someone exercised those provisions, which we encourage them to do. The caution is to not automatically eliminate someone from consideration if they happen to have pending litigation. Basically, if there is a lawsuit, the County needs to determine if the lawsuit is such that we are not going to be able to do business with them. The County needs to know about the lawsuit, but the mere fact of it does not mean they are going to be disqualified.

In Favor: Malinowski, Dickerson, McBride, Terracio, Walker, Kennedy, Jackson, Myers and Newton

Opposed: Livingston

The vote was in favor.

17. **REPORT OF THE BLUE RIBBON AD HOC COMMITTEE**

- a. HMGP 4241-DR (2015 Flood) Property Buyout Program Update – Disqualification of Two (2) Properties – Mr. Voignier stated this is a request to remove two (2) non-residential properties from program acquisition for the Hazard Mitigation Grant Program. The committee unanimously recommended approval of this item.

In Favor: Malinowski, Dickerson, McBride, Livingston, Terracio, Walker, Kennedy, Manning, Jackson, Myers and Newton

The vote in favor was unanimous.

- b. Small Rental Rehab (SRR) Program Update – Reopen the SRR Program – Mr. Voignier stated this is a request to reopen the Small Rental Rehab Program, which was closed due to inactivity. Staff identified at least one applicant that applied on time, and was qualified for repairs. The committee unanimously recommended reopening the Small Rental Rehab Program.

Ms. McBride inquired about how much funding is in that area.

Mr. Voignier responded there is currently no funding allocated for the program. This would transfer \$400,000 from the Single Family Rehab Program to the Small Rental Rehab Program.

In Favor: Malinowski, Dickerson, McBride, Livingston, Terracio, Walker, Kennedy, Jackson, Myers and Newton

The vote in favor was unanimous.

- c. Reallocation of Funding for the Business Assistance Program (BAP) – Close the BAP Program – Mr. Voignier stated this is a request to close the Business Assistance Program. There was no identified

activity within the program. Given the fact there are considerable funds available in the program, and there is a considerable amount of needs in the Single Family Rehab Program, the committee reviewed the information and unanimously recommended closing the Business Assistance Program, and transfer the over \$1M in funding into the Single Family Rehab Program.

Mr. Malinowski inquired if we are within the guidelines and allowed to do this type of transfer.

Mr. Voignier responded in the affirmative. Once this has been approved, it will require us to make an amendment to the Action Plan with HUD. As long as we meet the criteria, and Council approves, we are within our ability to make this change.

In Favor: Malinowski, Dickerson, McBride, Livingston, Terracio, Walker, Kennedy, Jackson, Myers and Newton

The vote in favor was unanimous.

- d. Continuation of Recovery Consultancy Services – Change Order #8 for Task Order #7 – Mr. Voignier stated this is a request to approve a change order to the planning and implementation services provided by Tetra Tech, which administers the Single Family Rehab Program. This change order is due to the impacts from COVID-19 affecting the contractor’s ability to conduct work in the homes, and issues with the homeowners desire to stay within the home.

Ms. McBride stated she does not understand what the change order does.

Mr. Voignier responded the current change order is through July 17<sup>th</sup>. This change order would extend the period of performance to allow work to continue on the remaining rehabs and rebuilds. Tetra Tech’s staff performs inspections, assessments, prepares scopes of work related to the rehabs, and ensure the projects are closed out properly.

Mr. Malinowski stated he is not sure why we are adding funds to this. If in fact you were delayed because of COVID, it means you were not out there doing the work you were contracted to do. He inquired why you are getting more, when you are just doing the work later.

Mr. Voignier responded much of the rehab work was delayed due to our subcontractors closing down for a period of time due to COVID-19. Some of them put in restrictions, through company policies that impacted the work being done on the rehabs in the homes. This simply extends the time allotted for the work to continue.

Mr. Malinowski stated we are paying approximately \$250,000 to tell people they can finish the job, and finish it later than what you normally would have. They did not do the job to begin with. He still does not understand why we are paying more money to get the same job done just because it happens to be done later. In addition, the briefing document mentions an “Attachment B”, which was not included in the agenda packet.

Ms. Terracio noted that we are already engaged with Tetra Tech, and as a Council member, she has not seen any fruits of their work. She is disinclined to support this motion.

Mr. Livingston responded this is in reference to the flood, and he is sure that staff can provide examples of their endeavors.

Mr. Malinowski moved, seconded by Mr. Jackson, to defer this item.

Mr. Voignier noted, when the task order runs out on July 17<sup>th</sup>, there will be homes and projects that will not be closed. We are paying for homeowners to stay in relocation status, and that will have to continue indefinitely.

Mr. Livingston inquired if the relocation costs is a part of the requested increase.

Mr. Voignier responded that it does not.

Mr. Malinowski withdrew his motion.

Mr. Voignier stated the Tetra Tech staff administer the program, so if homes are not being completed by the subcontractors, they are not able to do project closeouts. The work they have been doing is related to ensuring the projects that are on time are getting completed. The plan was to complete more projects, within the time period COVID hit, in order to complete the period of performance by July 17<sup>th</sup>. Because the subcontractors got delayed, we are not paying them any additional funds. This is to pay Tetra Tech additional funds to ensure the closeout of those projects are completed (i.e. closing documents, inspections, etc.).

Mr. Malinowski stated, if Tetra Tech was supposed to closeout "30" homes and they have only closed out "20" and delayed on "10" then they have not done their full quota of closings, so why do they get more.

Mr. Voignier responded it is a time and materials contract, so it is not necessarily based on the number of projects completed.

Mr. Malinowski inquired what time and materials is Tetra Tech using.

Mr. Voignier responded the subcontractors that actually complete the homes are the ones that closed down due to COVID-19, so we were not able to rehab certain homes. Tetra Tech was not able to do the additional homes, and the reason for the increase in the task order.

Ms. D. Myers stated, for clarification, when the delay happened, did we have to keep additional home out of their homes, and is that the source of the increase in funds.

Mr. Voignier responded that is not the source of this particular increase.

Ms. D. Myers inquired if it is because paying the Tetra Tech team is irrespective of how many jobs they do.

Mr. Voignier responded in the affirmative.

Ms. D. Myers stated, for clarification, Tetra Tech has to do this work, and we had anticipated them completing it by March, but because they could not go into homes we have to pay them for their time in the months, even when they did not have to work.

Mr. Voignier responded that they are doing other work, in terms of responding to citizen calls, insuring that the individuals that are displaced are updated, etc. If we were discussing additional projects, he believes the increase in the task order would be even more than this.

Ms. D. Myers stated, for clarification, the task order increase in this one is because of the additional time it is taking them to do the same work.

Ms. Powell responded in the affirmative.

Ms. D. Myers noted that is why they are being paid more, even though they have not finished the same work because we are paying for their time. We do not pay them by the job.

Mr. Malinowski stated, on p. 132 of the agenda, it says "Other Support". The footnote on that item says, "back office support and SMEs". He inquired as to what SMEs are.

Ms. Powell responded "Subject Matter Experts".

Mr. Malinowski inquired as to what the back office support does.

Ms. Powell responded there is a variety of support functions Tetra Tech provides on a day-to-day basis. It varies by case, but it is whatever the County asked of them. Whether it be following up with individuals about relocation or corresponding with contractors when jobs are delayed.

Mr. Malinowski stated, on p. 133, under "Lead-based Paint Clearance Tests" it says, Tetra Tech will conduct 20 clearance tests, and they reserve the right to request an adjustment to the budget got costs associated with any additional lead-based paint/clearance test. Do they not know how many tests they have to do right now, based on the number of houses and the years they were built.

Mr. Voignier responded they do know how many tests are needed. There are different ways to mitigate lead-based paint, which is typically built into the cost for the subcontractor, but some of the work that was previously done by other contractors, who we terminated contracts with, did not complete these lead-based paint tests. Tetra Tech is having to conduct these lead-based clearance tests, which is what they are referencing.

Mr. Malinowski noted it indicates the Project Manager will work on site. He inquired if the Project Manager has always worked on site, and been around if needed.

Ms. Powell responded in the affirmative.

Mr. Malinowski stated, if the Project Manager has always been around when needed, why in a previous change order, was there a \$96,500 increase for Tetra Tech services to cover the Project Manager's travel expenses.

Ms. Powell responded the arrangement we have had in the past is that the Project Manager would come from out of state to be in office approximately 3 days a week. We are paying for travel and lodging, as it relates to that.

Mr. Malinowski inquired if we get a breakdown of the person's expenses.

Ms. Powell responded in the affirmative.

Mr. Malinowski requested to be provided a copy of the breakdown.

In Favor: Livingston and Myers

Opposed: Malinowski, Dickerson, McBride, Terracio, Walker, Kennedy, Manning and Jackson

The motion failed.

Ms. D. Myers inquired as to what follow-up action will need to be taken with regard flood remediation that needed approved, or reviewed by Tetra Tech. In other words, what does the failure of this motion do to those homes?

Ms. Powell responded staff would have to go back to the drawing board. With the failure of the motion, we would not be able to continue the program because we do not have staff to support it.

Ms. D. Myers inquired about the number of homes impacted.

Mr. Voignier responded approximately 20 homes.

Ms. D. Myers stated, for clarification, we are leaving them incomplete, based on the motion.

Mr. Voignier responded in the affirmative.

Ms. Powell stated, there are 20 homes already in the program, but we just moved \$1M from the Business Assistance Program to this program. There is an additional 110 homes frozen, and another 118 homes on the waiting list. There is a separate intake process, so that is not to say that all of the homes would qualify, but there is the potential for there to be more 20 homes impacted.

Mr. Manning moved, seconded by Mr. Walker, to reconsider this item.

In Favor: Livingston, Walker, Manning, Jackson, Myers and Newton

Opposed: Malinowski, Dickerson, McBride and Terracio

The vote was in favor.

Ms. Dickerson moved, seconded by Mr. Malinowski, to defer this item.

In Favor: Malinowski, Dickerson, McBride, Terracio, Walker, Manning, Jackson and Newton

Opposed: Livingston and Myers

The vote was in favor.

**18. REPORT OF THE EMPLOYEE EVALUATION AD HOC COMMITTEE**

- a. Evaluation Process for County Administrator – Ms. Newton stated this item is regarding the evaluation process for the County Administrator. As per the email she sent out to Council, and the information that was in the meeting packet, the committee recommends that we use the criteria outlined by the Administrator Search Ad Hoc Committee. Specifically, that we use the following criteria: Leadership; Strategic Planning and Initiatives; Council, Community and Media Engagement; Crisis Management; Budget and Financial Oversight; Property Management; and Talent and Team Development.

Mr. Jackson inquired if there has been any discussion and an attempt to reach a consensus with Administrator that these will be the appropriate criteria to be used.

Ms. Newton responded that she had a conversation with Mr. Brown regarding the criteria, and he agreed on using those criteria for this first evaluation.

In Favor: Malinowski, Dickerson, McBride, Livingston, Terracio, Walker, Jackson, Myers and Newton

\*\*Ms. Roberts noted for the record that Ms. Kennedy was experiencing audio difficulties.

The vote in favor was unanimous.

- b. Job Description Development and Evaluation Process for other Council Direct Reports – Ms. Newton stated the committee recommends using the existing agreement with Find Great People to create job descriptions, consistent with Council’s desire, as well as State Law, for the County Attorney and the Clerk to Council. Find Great People can also be used, if desired, to assist with a job description for the Internal Auditor.

Mr. Malinowski stated he has seen job descriptions for these positions, so he wonders why we are reinventing it. Unless someone has reviewed them and feels they are not accurate.

Ms. Newton stated, in a previous committee meeting, the committee discussed updating those job descriptions, and bringing them current.

Mr. Malinowski stated, for clarification, the motion should be “updating” the job descriptions.

Ms. Newton responded that is correct, except in the case of the Internal Auditor, which there is currently no job description.

Mr. Malinowski stated he believes we are going outside of what was initially voted on and approved by Council, which was to have the Administrator’s evaluation done because time was of the essence. It was his understanding that Council would decide what to do regarding the job descriptions and evaluations for the other employees, and to put out a procurement request and not arbitrarily continue with this same company. He noted that this company is not local, and he is not sure how they are in regard to diversity.

Mr. Jackson stated he is concerned that we are contracting out a function that should fit within our Human Resources Department. He would like to know why we are not utilizing our HR Department, as HR Departments are typically used to do the very thing we are talking about doing outside of their sphere of responsibility.

Ms. Newton stated, in terms of the recent amendment to the agreement we have with Find Great People, it does include the opportunity to use them for services like this. Part of the thinking was, as we were going through the evaluation process, it would be efficient to continue that work. The committee did not discuss working with the HR Department to update the job descriptions.

Mr. Jackson stated his question was not tied to finances, but to functionality. It should be the normal function of HR to do what we are having a third-party to do.

Ms. Dickerson stated, at one time, we did have an Internal Auditor. She noted they just did an evaluation at the COMET, and they did not use a third-party entity to assist them. The evaluation went smoothly, and was very accurate; therefore, she cannot understand why we cannot use our HR Department to assist us.

Mr. Malinowski stated we might be able to glean something from the COMET, when creating what is needed, since their evaluation went smoothly. He realizes Mr. Jackson was not speaking financially, but when it was mentioned the new contract includes the opportunity to work with them to update

the job descriptions, but it also includes the opportunity for us to pay them \$5,000 - \$10,000. He believes we need to send this back to committee, and request HR to get involved.

Mr. Malinowski made a substitute motion, seconded by Ms. Dickerson, to send this back to committee, and have the committee to work with HR on this matter.

Mr. Livingston suggested dividing the question since there are two parts (Job Descriptions and Evaluation Process) to this item.

Mr. Malinowski responded you have to create the evaluation process, and what forms are needed, before we can move forward. He believes Find Great People can create the Administrator's evaluation because we need to have that done, but for the other positions we should get HR involved.

Mr. Manning stated he is going to be voting in favor of the committee's recommendation. He has served on Council for 11 ½ years, and Council has worked on getting position descriptions for these positions for those 11 ½ years, and we do not have them. He thinks giving Find Great People a shot to have that happen would be commendable.

Mr. Manning made a second substitute motion to defer this until January 2021.

The motion died for lack of a second.

Mr. Walker stated, he struggles to see how it makes any sense to have a HR Department, headed by an HR Director, who answers to Council's employee, the County Administrator, to potentially be in charge of a job description and/or assessment of a superior. The responsibility for all of that rested squarely in the lap of Council. Employing a third-party firm to do that seems the most consistent with best practices.

Mr. Jackson stated the comments he made earlier did not include the Administrator. His comments related to the role of HR for the other positions on the table.

In Favor: Malinowski, Dickerson and Jackson

Opposed: McBride, Livingston, Terracio, Walker, Kennedy, Manning, Myers and Newton

The substitute motion failed.

Mr. Malinowski made a second substitute motion, seconded by Ms. Dickerson, to send this through Procurement to advertise, so we can ensure the County is getting the most advantageous services, and not continue following down the same line with same company.

Mr. Walker inquired, if a new substitute motion, by the maker of a previously failed substitute motion, properly before the body.

Mr. Livingston responded it is if it is a different motion.

Mr. Manning stated, from his understanding, if we pass this motion tonight, it will get to Procurement, they will write up the process, put it out to bid for 60 days, get the bids in, and open the bids, so that is going to end up being January 2021.



Ms. Newton inquired how long it will take to go through that process, since she does not know if people are on State contract for this. She stated this is a vendor we have worked with, and she does not know that the process of updating job descriptions will be a particularly lengthy one. She would suggest taking the committee's recommendation, so we can move forward with this expeditiously. She stated she has not been on Council, but for a short amount of time, but it is her understanding that we have not conducted evaluations, and we have not necessarily updated these documents.

Ms. Dickerson stated come January we are going to have a lot of new Council members. When we were going through this process before, we were holding up items, such as this, until we got the new Council members on so they could have a voice in this.

Mr. Malinowski stated, right now, we do not have any evaluations due, except the Administrator. We do not have anything for the Clerk. That time has come and gone. In all the time he has been here, we have never done the Attorney, and we do not have an Internal Auditor. He does not see what the hurry is on this. We are all guessing, without asking the Procurement Director, what the timeframe would be. Rather than guessing, let's have the Procurement Director to give us an approximate time.

In Favor: Malinowski and Dickerson

Opposed: McBride, Livingston, Terracio, Walker, Kennedy, Manning, Jackson, Myers and Newton

The second substitute motion failed.

In Favor: McBride, Livingston, Terracio, Walker, Kennedy, Manning, Myers and Newton

Opposed: Malinowski, Dickerson and Jackson

The vote was in favor.

c. Contractual Matter/Personnel Matter – This item was taken up in Executive Session.

19. **EXECUTIVE SESSION**

Ms. Kennedy moved, seconded by Ms. Newton, to go into Executive Session.

In Favor: McBride, Livingston, Terracio, Kennedy, Myers and Newton

Opposed: Malinowski, Dickerson, Walker, Manning and Jackson

The vote was in favor.

***Council went into Executive Session at approximately 10:04 PM and came out at approximately 11:16 PM***

Mr. Manning moved, seconded by Ms. Terracio, to come out of Executive Session.

In Favor: Malinowski, Dickerson, McBride, Livingston, Terracio, Walker, Manning, Jackson, Myers and Newton

The vote in favor was unanimous.

- a. Contractual Matter/Personnel Matter – Ms. Newton moved, seconded by Mr. Walker, to proceed as directed in Executive Session.

In Favor: McBride, Terracio, Walker, Myers and Newton

Opposed: Malinowski, Dickerson, Livingston, Kennedy, Manning and Jackson

The motion failed.

Mr. Manning moved, seconded by Ms. Newton, to proceed with Find Great People to bring temporary assistance into the Clerk to Council's Office.

Mr. Malinowski stated it seems to him the motion is the same as what we just voted on. It is just worded out loud versus as discussed in Executive Session.

Mr. Manning responded, as discussed in Executive Session, is four words. The motion he made is a sentence.

Mr. Livingston ruled that is the same motion.

Mr. Manning moved, seconded by Ms. McBride, to reconsider this item.

In Favor: McBride, Terracio, Walker, Manning, Myers and Newton

Opposed: Malinowski, Dickerson, Livingston, Kennedy and Jackson

The vote was in favor of reconsideration.

In Favor: McBride, Terracio, Walker, Manning, Myers and Newton

Opposed: Malinowski, Dickerson, Livingston, Kennedy and Jackson

The vote was in favor of proceedings as discussed in Executive Session.

20. **MOTION PERIOD**

- a. I suggest that an upfront (Home Page) be required on the Richland County website that lists ALL Public meetings and they must be listed 5 days in advance of the public meeting. Required information will include, stating the purpose, location, person responsible for meeting/hearing and agenda. Seeking public input via e-mail or in writing is important but not sufficient as the only input, COVID-19 or not. [MALINOWSKI] – This item was referred to the Rules and Appointments Committee.

21. **ADJOURNMENT** – The meeting adjourned at approximately 11:25 PM.