

MINUTES OF



RICHLAND COUNTY COUNCIL REGULAR SESSION TUESDAY, MARCH 15, 2011 6:00 p.m.

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.

MEMBERS PRESENT:

Chair	Paul Livingston
Vice Chair	Damon Jeter
Member	Gwendolyn Davis Kennedy
Member	Joyce Dickerson
Member	Valerie Hutchinson
Member	Norman Jackson
Member	Bill Malinowski
Member	Jim Manning
Member	L. Gregory Pearce, Jr.
Member	Seth Rose
Member	Kelvin Washington

OTHERS PRESENT – Michielle Cannon-Finch, Milton Pope, Tony McDonald, Sparty Hammett, Roxanne Ancheta, Randy Cherry, Stephany Snowden, Tamara King, Melinda Edwards, Larry Smith, Dale Welch, Carl Gosline, John Hixon, Daniel Driggers, Dan Johnson, Buddy Atkins, Bill Peters, Anna Fonseca, e Walters, Michelle Onley

CALL TO ORDER

The meeting was called to order at approximately 6:04 p.m.

INVOCATION

The Invocation was given by the Honorable Valerie Hutchinson

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by the Honorable Valerie Hutchinson

APPROVAL OF MINUTES

Regular Session: March 1, 2011 – Mr. Washington moved, seconded by Mr. Rose, to approve the minutes as distributed. The vote in favor was unanimous.

ADOPTION OF AGENDA

Mr. Pope stated that a Legal Briefing: Hamilton-Owens Airport needed to be added under the Report of the County Attorney for Executive Session.

Mr. Livingston stated that Ms. Dickerson requested to recognize Mr. Derrick Huggins under the Report of the Chairman.

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

REPORT OF THE COUNTY ATTORNEY FOR EXECUTIVE SESSION MATTERS

- a. **Shumaker vs. Richland County**
- b. **Mitigation Bank Proposal Update**
- c. **Employee Grievance**
- d. **Hamilton-Owens Airport**

CITIZENS' INPUT

No one signed up to speak.

REPORT OF THE COUNTY ADMINISTRATOR

Mitigation Bank Proposal Update – This item was taken up during Executive Session.

Property Acquisition Update – Mr. Pope stated that the County has entered into a contract with the owners of Decker Mall and begun the due diligence period. Updates will be provided to Council regarding the acquisition.

Employee Grievance – This item was taken up during Executive Session.

REPORT OF THE CLERK OF COUNCIL

Ms. Finch congratulated Councilwoman Dickerson on being chosen as the President-elect of the Women of NaCo.

REPORT OF THE CHAIRMAN

CMRTA: Derrick Huggins – Mr. Derrick Huggins gave a brief overview of the goals for the CMRTA.

APPROVAL OF CONSENT ITEM

- **An Ordinance Amending the Fiscal Year 2010-2011 General Fund Annual Budget to appropriate \$155,900 of General Fund Undesignated Fund Balance to the Coroner for additional funding for current budget [SECOND READING]**

Mr. Manning moved, seconded by Ms. Hutchinson, to approve the consent item. The vote in was unanimous.

THIRD READING

An Ordinance Amending the Richland County Code of Ordinances, Chapter 2, Administration; Article VII, Boards, Commissions and Committees; Section 2-332, Boards, Commissions and Committees Created; so as to create a Richland County Complete Streets Commission, and setting forth the conditions under which said commission shall function and the responsibilities of same – Mr. Jeter moved, seconded by Ms. Dickerson, to approve this item.

Mr. Washington made a substitute motion, seconded by Mr. Jeter, to amend the language in Sec. I(s)(2) *Membership* by removing “one (1) representative from District One of the South Carolina Department of Transportation (SCDOT)” and adding the following language: “*In addition, the South Carolina Department of Transportation (SCDOT) District One Administrator or his/her designee shall serve on the Commission.*” The vote in favor was unanimous.

Mr. Malinowski made a motion to amend Sec. I(s)(4)(e) as follows: “*Develop measures in an attempt to reduce pedestrian and cycling accidents.*” The vote in favor was unanimous.

Ms. Hutchinson moved, seconded by Ms. Dickerson, to approve this item as amended. The vote in favor was unanimous.

SECOND READING

An Ordinance Amending the Fiscal Year 2010-2011 General Fund Annual Budget to appropriate \$164,754 of General Fund Undesignated Fund Balance to the Solicitor for additional funding for emergency budget request – Mr. Washington moved, seconded by Mr. Manning, to approve this item. The vote was in favor.

REPORT OF RULES AND APPOINTMENTS COMMITTEE

I. NOTIFICATION OF VACANCIES

- a. **Township Auditorium—1** – Mr. Malinowski stated that the committee recommended advertising for this vacancy. The vote in favor was unanimous.

II. NOTIFICATION OF APPOINTMENTS

- a. **Accommodations Tax Committee—3** – Mr. Malinowski stated that the committee recommended re-advertising for these vacancies. The vote in favor was unanimous.
- b. **Appearance Commission, Landscaper/Landscape Architect—1** – Mr. Malinowski stated that the committee recommended re-advertising for this vacancy. The vote in favor was unanimous.
- c. **Building Codes Board of Adjustments & Appeals, (1) Licensed Contractor and (3) Fire Protection Industry—4** – Mr. Malinowski stated that the committee recommended re-advertising for these vacancies. The vote in favor was unanimous.
- d. **Hospitality Tax Committee—4** – Mr. Malinowski stated that the committee recommended re-appointing Mr. Eddie Green and Mr. Derrick Williams and appointing Mr. Robert Tunell and to re-advertising for the remaining vacancy.

Mr. Washington made a substitute motion, seconded by Mr. Manning, to appoint all four applicants.

<u>For</u>	<u>Against</u>
Jeter	Pearce
Manning	Malinowski
Washington	Jackson
	Hutchinson
	Livingston
	Dickerson
	Kennedy
	Rose

The vote on the substitute motion failed.

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

- e. **Internal Audit Committee—2** – Mr. Malinowski stated that the committee recommended re-advertising for these vacancies. The vote in favor was unanimous.
- f. **Planning Commission—2** – Mr. Malinowski stated that the committee recommended re-appointing Mr. David Tuttle and appointing Mr. Howard VanDine, III. The vote in favor was unanimous.

III. DISCUSSION FROM RULES AND APPOINTMENTS COMMITTEE

- a. **Personnel Matter: Evaluation Forms/Job Description** – This item was held in committee to obtain additional information.
- b. **All elected County officials shall be treated equally, no exceptions [JACKSON]** – This item was held in committee to obtain additional information from the maker of the motion.
- c. **If Council intends to attempt another try at a Referendum for a penny sales tax increase, all Council members shall hold public meetings to get public input before making a final decision whether to move forward or not. Public input shall determine how proceeds from the tax will be spent and the term of the tax. This process should be given enough time to make sure it does not appear rushed or at the last minute.**

Reason: If approved, the citizens will be paying for this and we are only the representatives of the people's will and so we shall do everything that's in the best interest of the people we serve.

Transparency: This process whether it is approved and passes or not will give comfort to our constituents that we are not hiding anything by revealing up front everything that would be done with that tax. [JACKSON] – This item was held in committee to obtain clarity and additional information from the maker of the motion.

- d. Motion to review Council's rules and regulations regarding the authority of the Chair, seniority, and possible term limitation in positions and rotations [DICKERSON, JACKSON, MALINOWSKI, AND KENNEDY] – Mr. Malinowski stated that the committee recommended no changes be made to the Council rules regarding the authority of the Chair and seniority. The vote in favor was unanimous.

The committee further recommended that the Chair serve no more than two consecutive terms and would then not be allowed to serve again for two terms. A discussion took place.

<u>For</u>	<u>Against</u>
Malinowski	Pearce
Jackson	Jeter
Hutchinson	Livingston
Dickerson	Manning
Kennedy	Rose
	Washington

The vote on the committee's recommendation failed.

- e. **Central Midlands Regional Transit Authority—1** – Mr. Malinowski stated that the committee recommended appointing Mr. John V. Furgess, Sr. The vote in favor was unanimous.

OTHER ITEMS

An Ordinance Amending the Fiscal Year 2010-2011 General Fund Annual Budget to appropriate \$70,000 of General Fund Undesignated Fund Balance to the County Attorney for Redistricting Ad Hoc Committee – Mr. Washington moved, seconded by Ms. Kennedy, to approve this item. The vote in favor was unanimous.

CITIZEN'S INPUT

Mr. Jerry Benedict spoke regarding Club Raw.

EXECUTIVE SESSION

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Council went into Executive Session at approximately 6:49 p.m. and came out at approximately 7:54 p.m.
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- a. **Employee Grievance** – Mr. Manning moved, seconded by Mr. Malinowski, to uphold the Administrator's recommendation.

Mr. Washington made a substitute motion to uphold the committee's recommendation. The motion died for lack of a second.

The vote was in favor.

- b. **Shumaker vs. Richland County** – Mr. Malinowski moved, seconded by Ms. Dickerson, to direct the County Attorney to settle the claim as discussed in Executive Session. The vote in favor was unanimous.

- c. **Mitigation Bank Proposal Update** – Ms. Hutchinson moved, seconded by Mr. Malinowski, to decline the offer of the Hopkins land purchase for mitigation banking purposes.

Mr. Washington made a substitute motion, seconded by Mr. Jackson, to defer this until staff's provides further information.

<u>For</u>	<u>Against</u>
Jackson	Pearce
Livingston	Malinowski
Manning	Hutchinson
Rose	Jeter
Washington	Dickerson
	Kennedy

The vote on the substitute motion failed.

Mr. Manning made a substitute motion, seconded by Mr. Washington, to direct staff to make an offer at the appraised value of \$5,030,000. The substitute motion failed.

<u>For</u>	<u>Against</u>
Pearce	Jackson
Malinowski	Livingston
Hutchinson	Manning
Jeter	Rose
Dickerson	Washington
Kennedy	

The vote was in favor of the main motion.

- d. Hamilton Owens Airport – No action was taken.

MOTION PERIOD

I move that we change whatever is necessary so that the Talking Trash Booklet can read that Yard Trash will be picked up equivalent to 4 hoppers as opposed to 2 hoppers [MANNING] – This item was referred to the D&S Committee.

Resolution honoring the Keenan Boys Basketball Team for their consecutive State Championship win [KENNEDY] – Mr. Pearce moved, seconded by Mr. Malinowski, to adopt a resolution honoring the Keenan Boys Basketball Team for their consecutive State Championship win. The vote in favor was unanimous.

Explore how procurement decisions can provide an element of advantage to use businesses located in Richland County [MANNING] – This item was referred to the Economic Development Committee.

In the interest of regional consistency and public safety, I move that Richland County Council adopt an ordinance (consistent to the City of Columbia) banning texting while operating a motor vehicle [ROSE] – This item was referred to the D&S Committee.

To have staff obtain and provide council information as it relates to Richland County Transportation Committee spending to include the number of studies conducted, the amount spent, and the companies that received those amounts [MALINOWSKI] – This item was referred to the A&F Committee.

For Richland County Council in conjunction with staff to create a policy that addresses the existing budget of newly elected officials and their possible requests for additional funding [MALINOWSKI] – This item was referred to the A&F Committee.

For Richland County Council in conjunction with staff to create a policy that will be adhered to for agencies requesting additional budget funds that will cause a budget amendment [MALINOWSKI] – This item was referred to the A&F Committee.

All checkmarks placed for recommendation or denial of a particular item on the Council agenda will require a comment to show why such decision was made (No more blanks) [MALINOWSKI] – This item was referred to the Rules & Appointments Committee.

That building requirements relating to environmental issues will require regulations for areas of “pollution” that don’t appear to be considered currently, to include but not limited to: Light pollution based on the amount of lights and

time a facility will use them, run off pollution from additional vehicle contaminants, lawn chemical use, and other household activities that may have a negative effect on drinking aquifers supplying wells, ozone pollution due to additional vehicle traffic created by the development, and that sewer extensions be considered regarding the negative effect they will have on residents with septic systems who would be required to hook up to public sewer in the event of a malfunction vs. having it repaired/replaced [MALINOWSKI] – This item was referred to the D&S Committee.

That all meetings Council members are advised of will automatically be placed on those Council members calendars who request this service, whether or not they “accept” the invite [MALINOWSKI] – This item was referred to the Rules & Appointments Committee.

In light of some recent FOIA requests staff should create a policy addressing requests stating they are in the interest of the public and, therefore, the requester should not be charged. Just because a media person or attorney makes a request does not automatically make it in the interest of the public. It should be incumbent on the requester to show that [MALINOWSKI] – This item was referred to the Rules & Appointments Committee.

That all Ordinance changes and text amendments be reflected on the County website no later than 30 days after approval by Council. Presently some ordinance changes that law enforcement may have a need for do not reflect current wording [MALINOWSKI] – This item was referred to the Rules & Appointments Committee.

I move to create economic incentives (i.e. special tax credits, etc.) for development in the County’s priority investment areas as well as within a 1 mile radius [MANNING] – This item was referred to the Economic Development Committee.

Manage number of motions made by Council members during the Motion Period [LIVINGSTON] – This item was referred to the Rules & Appointments Committee.

In the interest of co-locating the County and City’s planning, zoning, business licenses, and permitting departments, I move that Chairman Livingston appoint a three member committee, made up of Richland County Council Members, said committee will be entrusted to meet with and discuss co-location of these departments with City Council. This committee will solely be to discuss co-location of these departments to create a “one stop shop” for business here in Richland County [ROSE] – This motion was withdrawn.

I move that staff research the feasibility of Richland County creating a joint or co-locating Economic Development Office with the City of Columbia. Such research to specifically entail discussions with City Manager to determine what resources

the City would be willing to share (i.e. departmental housing, support staff, etc.)
[ROSE] – This motion was withdrawn.

All motions shall be made from Council members only and any request or modification or amendments from staff should be sponsored by a Council member. All changes or additions to any document shall be highlighted or shown in a different color [JACKSON] – This item was referred to the Rules & Appointments Committee.

Amend the recently passed Heirs Property Ordinance to remove staff's addition that includes: Restrictive Covenants (RC), Hold Harmless Agreement (HHA) and the additional 16ft right of way from 66ft back to 50ft.

Note: Legal was supposed to review and approve the HHA and RC prior to Planning Commission and public hearing. It was done after third reading and legal cannot find any reason for those additional burdens and neither can I. 50ft right of way is the standard for ditch sections for two lane roads. This is dirt road and requires a 20ft passage 4ft less than the standard 24ft paved road. [JACKSON] – This item was referred to the D&S Committee.

Statement Re: Special Called December 21, 2010 Executive Session: At its Special Called meeting on December 21, 2010 Council met in Executive Session to discuss the employment status of the Clerk of Council, whose employment agreement expired in November and who, upon expiration of that agreement, was appointed by Council to continue on a month to month basis. In Executive Session, two options were discussed.

Option A was to terminate the Clerk's employment effective close of business March 31, 2011 but, in exchange for a full and complete release of any and all claims, to offer her a position within the County Government to be designated by Council at her current salary so she could remain employed in another capacity and work toward attaining retirement eligibility under the South Carolina Retirement System—which requires a minimum of 28 years of active and constructive service to qualify for full retirement benefits. Option A also called for Council to purchase constructive retirement credit for the Clerk, not to exceed 5 years, if and after she attained 23 years of credited service and desired to retire permanently from Richland County government.

Option B was to terminate the Clerk's employment effective close of business March 31, 2011 and to find a position in Richland County Government to be designated by Council to offer to the Clerk so that she could continue her employment with the County in another capacity at her existing salary if she chose to accept the position offered.

Out of respect to the Clerk, when Council came out of Executive Session, we used the shorthand terminology “Option A” and “B” to describe the motions that were thereafter made in open session. Thus, upon returning to open session the minutes of the December 21, 2010 reflect that “Ms. Hutchinson moved, seconded by Ms. Dickerson, to approve Option B” and that “Mr. Jackson made a substitute motion, seconded by Mr. Washington, to approve Option A.” The minutes further reflect that the ensuing vote was

6-5 in favor of substitute motion, Option A, and that a motion to reconsider, was made and failed by a 6-5 vote.

I thought it important that we clarify our 21st minutes regarding your vote on “Option A” and “Option B” so there is and will be a public record of what those two options represented. I suggest that this statement be appended as an addendum and/or a clarification to the minutes of the December 21, 2010 meeting.

ADJOURNMENT

The meeting adjourned at approximately 8:15 p.m.

Paul Livingston, Chair

Damon Jeter, Vice-Chair

Gwendolyn Davis Kennedy

Joyce Dickerson

Valerie Hutchinson

Norman Jackson

Bill Malinowski

Jim Manning

L. Gregory Pearce, Jr.

Seth Rose

Kelvin E. Washington, Sr.