



## Richland County Council

SPECIAL CALLED MEETING  
October 1, 2019 – 6:00 PM  
Council Chambers  
2020 Hampton Street, Columbia, SC 29204

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

**OTHERS PRESENT:** Michelle Onley, Ashiya Myers, Beverly Harris, Angela Weathersby, Stacey Hamm, Leonardo Brown, Jennifer Wladischkin, Clayton Voignier, Kim Williams-Roberts, James Hayes, Ashley Powell, John Thompson, Quinton Epps, Christine Keefer, Nancy Stone-Collum, Michael Niermeier, Janet Claggett, Brad Farrar, Geo Price, Michael Byrd, Judy Carter, Sandra Haynes, Larry Smith, Jeff Ruble David Bertolini, John Hopkins, Allison Steele, Eden Logan, Brittney Hoyle Terry, Cathy Rawls, Paul Brawley Tariq Hussain and Chris Eversmann

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 Gwen Kennedy
3. **PLEDGE OF ALLEGIANCE** – The Pledge of Allegiance was led by the Honorable Gwen Kennedy

**POINT OF PERSONAL PRIVILEGE** – Mr. Livingston recognized that Mr. Brown’s wife, Tasha, was in the audience.

4. **PRESENTATION: Riverbank Zoo’s Update** – Mr. Tommy Stringfellow stated the zoo’s mission is to create connections, inspire actions and impact conservation. He stated the continent has lost over 3 Billion birds, or 25% of the bird population, in the past 50 years. Zoos are integral parts of finding ways to reduce this. On October 12<sup>th</sup>, they will be hosting the 1<sup>st</sup> Migratory National Bird Day in South Carolina. It is an International celebration hosted to support bird migration and conservation. This year’s theme is the “Impact of Plastic Pollution on Migration and the Health of Bird Populations.” They are working with the South Carolina Wildlife Federation, South Carolina DNR, South Carolina State Parks, South Carolina Aquarium, Richland Library, Carolina Wildlife, South Carolina Audubon, Columbia Audubon, South Carolina Native Plant Society, Palmetto Experience, Palmetto Outdoors, Wild Birds Unlimited, Wingard’s Market, and the Nature Conservancy.
5. **APPROVAL OF MINUTES**
  - a. **Regular Session: September 17, 2019** – Ms. Dickerson moved, seconded by Mr. Malinowski, to approve the minutes as distributed.

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

Present but Not Voting: Manning

The vote in favor was unanimous.

- b. Zoning Public Hearing: September 24, 2019 – Ms. Myers moved, seconded by Mr. Malinowski, to approve the minutes as distributed.

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

Present but Not Voting: Newton and Manning

Abstain: Terracio

The vote in favor was unanimous with Ms. Terracio abstaining from the vote.

- 6. **ADOPTION OF THE AGENDA** – Mr. Malinowski stated Item 16(d): “Homes of Hope/South Edisto Project” should be on the Consent Agenda as Item 13(i).

Mr. Malinowski moved, seconded by Ms. Dickerson, to adopt the agenda as amended.

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

Present but Not Voting: Newton and Manning

Abstain: Terracio

The vote in favor was unanimous with Ms. Terracio abstaining from the vote.

- 7. **REPORT OF ATTORNEY FOR EXECUTIVE SESSION ITEMS**

- a. Richland County vs. AT&T

- b. Wright vs. Richland County and Tetra Tech, et. al.

- c. Club Laroice Agreement – Mr. Smith stated this matter came before Council and the agreement that was offered, at that time, did not have a place for Richland County to sign. We thought it was appropriate to add Richland County, as a party, for enforcement purposes. In addition, it was brought to our attention that one of the provisions, which the parties had agreed to, related to the dissolution of the LLC, which was not included in the agreement. Therefore, there was an amendment to the agreement.

Ms. Myers moved, seconded by Ms. Dickerson, to approve the revised agreement, as presented.

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

The vote in favor was unanimous.

- 8. **CITIZENS’ INPUT**

- a. For Items on the Agenda Not Requiring a Public Hearing – Mr. Don Oglesby spoke regarding the Homes of Hope item.

9. **CITIZENS' INPUT**

- b. 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) – No one signed up to speak.

10. **REPORT OF THE COUNTY ADMINISTRATOR** – No report was given.

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

- a. Columbia Chamber of Commerce Annual Gala, October 3, 5:00 PM, Columbia Metropolitan Convention Center, 1101 Lincoln Street – Ms. Roberts reminded Council of the upcoming Chamber of Commerce's Annual Gala.
- b. EngenuitySC Reception, October 7, 5:30 – 7:00 PM, Spigner House – USC, 915 Gregg Street – Ms. Roberts reminded Council of the upcoming EngenuitySC Reception.
- c. Engage Richland: History & Hangar – Jim Hamilton – L. B. Owens Airport, October 10, 6:00 – 7:30 PM, Hamilton-Owens Airport, 1400 Jim Hamilton Boulevard – Ms. Roberts reminded Council of the upcoming Engage Richland at the Hamilton-Owens Airport.
- d. Institute of Government Classes & County Council Coalition, October 23 – 24, Embassy Suites – Columbia, 200 Stonebridge Drive – Ms. Roberts reminded Council of the upcoming SCAC Institute of Government classes and County Council Coalition.
- e. CIU Ribbon Cutting, October 4, 10:30 AM, 7435 Monticello Road – Ms. Roberts reminded Council of the ribbon cutting for CIU on October 4<sup>th</sup>.

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

13. **APPROVAL OF CONSENT ITEMS**

- a. 19-019MA, Sherri Latosha McCain, RS-MD to OI (1.25 Acres), 250 Rabon Road, TMS # R17116-01-06 [SECOND READING]
- b. 19-035MA, Tiffany Harrison, RU to LI (456.01 Acres), Blythewood Road, TMS # R15100-03-01 R15100-01-07, R12500-02-06 & R12600-03-03 (Portion) [SECOND READING]
- c. 19-036MA, Tiffany Harrison, RU to GC (27.54 Acres), Blythewood Road, TMS # R15100-01-04 [SECOND READING]
- d. Waverly Magistrate – Lease Renewal
- e. Airport Construction Contract Award Recommendations – Ms. Myers moved, seconded by Ms. Dickerson, to reconsider this item.

Opposed: Terracio, Malinowski, Jackson, Newton, Walker, Dickerson, Livingston and McBride

Present but Not Voting: Kennedy and Manning

Abstain: Myers

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The motion for reconsideration failed.

- f. Donation of old air packs (SCBA) to Richland County District One's CATE Program
- g. Approval of Award of Medical Supplies

Ms. Dickerson moved, seconded by Ms. Kennedy, to approve the consent item.

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

Present but Not Voting: Kennedy and Manning

The vote in favor was unanimous.

14. **THIRD READING ITEMS**

- a. An Ordinance Authorizing the levying of ad valorem property taxes, which, together with the prior year's carryover and other State levies and any additional amount appropriated by the Richland County Council prior to July 1, 2019, will provide sufficient revenues for the operations of Richland County Government during the period from July 1, 2019, through June 30, 2020 – Mr. Manning moved, seconded by Ms. Dickerson, to approve this item.

In Favor: Terracio, Jackson, Manning, Dickerson, Livingston and McBride

Present but Not Voting: Newton, Myers and Kennedy

Opposed: Malinowski and Walker

The vote was in favor.

15. **SECOND READING ITEMS**

- a. 19-027MA, Phil Savage, RU to GC (8.23 Acres), Dutch Fork Road, TMS # R02501-03-22 (Portion) – Mr. Malinowski stated he is going to move for 2<sup>nd</sup> Reading approval. While Mr. Savage, the applicant has agreed to cut out approximately 1 acre of property that borders the neighborhood, so it will not be rezoned, but remain rural. The County ordinance states that all scratch plans for subdivisions, which this would then be, must be approved by a registered Engineer or licensed surveyor. Until Mr. Savage gets that done, Mr. Malinowski does not want to see it back on the agenda until staff has determined that has been properly done.

Mr. Malinowski moved, seconded by Kennedy, to approve this item, with the stipulations expressed in his comments above.

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

Present but Not Voting: Kennedy

Opposed: Manning

The vote was in favor.

- b. 19-034MA, Nick Stomski, CC-3 to CC-4 (4.02 Acres), 700 Blue Ridge Terrace, TMS # R09409-01-02 & R09405-07-03 – Ms. Myers moved, seconded by Mr. Malinowski, to approve this item.

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

Present but Not Voting: Manning

The vote in favor was unanimous.

16. **REPORT OF ADMINISTRATION & FINANCE COMMITTEE**

- a. Award of Uniform Services Project – Mr. Malinowski stated, in the committee meeting, he requested to be provided with which departments are utilizing uniforms. He stated he never got the information and it is not included in the agenda packet.

Ms. Newton noted the information was included in the agenda packet.

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

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

Present but Not Voting: Manning

The vote in favor was unanimous.

- b. Legal Services Contract Extension for Richland County Conservation Commission (RCCC) – Ms. Dickerson stated the committee recommended to bid out the contract.

Mr. Malinowski stated, it his understanding, from some information that was received from the Conservation Commission, that when this contract expires with Mr. Driggers they could be left without any legal assistance for matters coming before them.

Mr. Malinowski made a substitute motion, seconded by Mr. Jackson, that until Procurement has had the opportunity to advertise and bring it back to Council for a decision that we allow Mr. Driggers to continue in that position.

Ms. Myers pointed out that technically both motions violate the County's ordinances. By ordinance, Mr. Smith is in charge of hiring lawyers for the County. To the extent, that we would be redirecting that through Procurement, when actually the proper way for it to be done is through Mr. Smith's office according to our County ordinance.

Mr. Smith stated that is correct. All of the attorneys that work for the County work under the County Attorney's supervision. However, in terms of how he employs them, he can employ them directly or he can go out for bid.

Mr. Malinowski withdrew his motion.

Mr. Walker stated, for clarification, an appropriate substitute motion would be to direct the County Attorney to procure, through all appropriate means, representation for the Conservation Commission.

Mr. Smith responded in the affirmative.

Mr. Walker moved, seconded by Mr. Malinowski, to direct the County Attorney to procure representation for the Conservation Commission.

Mr. Manning inquired how this determination came about since the committee meeting. This was on the committee agenda, and the agenda was not vetted. Now we are understanding that this happens through Mr. Smith's office, and not the way it has been.

Mr. Smith stated there are 2 ways that you can procure these services. One way is he could select someone because it is Professional Services. However, this matter came to the committee, and the committee expressed its preference that these services be bid.

Mr. Manning stated, for clarification, the motion tonight is to go about procuring, but in the meanwhile, when there is any need Mr. Smith hires the attorney. In other words, if next month we need a Conservation attorney, if we are not extending this contract until it goes through your procurement process, then how do we have those legal services.

Mr. Smith stated between that time and the time that this goes through the County Attorney's Office will do whatever they can to assist the Conservation Commission with whatever issues they may have. If it is the preference of Council that we procure these services, in a particular fashion, then he will carry out that directive.

Mr. Manning stated, for clarification, we ruled out of order a motion for Council to extend the current contract until Mr. Smith procures these services.

Mr. Smith stated, as he understood the issue, the statement, by Ms. Myers, was that technically the services of attorneys comes through the County Attorney's Office. Those services can be procured directly by the County Attorney or by way of a RFP. It is his understanding; the preference of the committee was for the services, related to the Conservation Commission, be procured by way of a RFP.

Mr. Manning inquired if it is currently not being done right. The motion that Mr. Malinowski made, which was to extend the contract, we are not able to do because all attorney services should be coming through Mr. Smith's office. He stated, if it is not coming through Mr. Smith's office today, then how tomorrow could it be legitimate, if the only legitimacy is when it comes through Mr. Smith's office.

Mr. Smith stated, as he understands the motion, it is coming through his office, by way of this Council directive. It will be coming through his office for purposes of procuring those services rather than having him select directly someone.

Mr. Manning inquired if it is currently coming through Mr. Smith's office. For example, if tomorrow morning there is a legal matter, related to the Conservation Commission, their current attorney is through Mr. Smith's office.

Mr. Smith stated, as he understands it, if that contract has expired, then they do not have...

Ms. Dickerson stated the contract does not expire until November 1<sup>st</sup>.

Mr. Manning requested Mr. Malinowski to repeat his motion and then to have it repeated why Council could not take up the motion.

Mr. Malinowski stated, in essence, it was that we allow Mr. Driggers to continue as the Conservation Commission's attorney during the time that Procurement sends out there advertisement and brings back a recommendation to hire an attorney. He stated Ms. Myers said, according to current County ordinance, this is not a legal motion because attorneys have to go through Mr. Smith's office, so he withdrew the motion.

Mr. Manning stated, that brings him back to, how is this attorney going to act on behalf of the Conservation Commission tomorrow, if they currently are not working in Mr. Smith's office.

Ms. Dickerson stated Mr. Driggers' contract ends November 1. If we put this out for bid now, hopefully, before November 1, we will be able to secure an attorney. In the meantime, if we have not procured anyone, Mr. Smith can act as the attorney for the Conservation Commission.

Ms. Myers stated Council ought to be leading the way on us following the County's Procurement Guidelines and Guidelines for Professional Services throughout the County. To the extent that lawyers are hired, there is a specific rule that says that Mr. Smith hires them. Everything else is purchased through Procurement. When we veer off that path, it creates issues.

Mr. Walker restated his motion that we direct the County Attorney to procure legal services for the Richland County Conservation Commission, by way of standard procurement.

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

Opposed: Manning

Abstain: Jackson

The vote was in favor.

- c. Fire Stations' Roof Replacement – Ms. Dickerson stated the committee recommended approval of this item.

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

Present but Not Voting: Kennedy and Manning

The vote in favor was unanimous.

- d. FY19-20 Public Serviced Projects – Ms. Dickerson stated the committee recommend approval of this item.

Mr. Malinowski stated, one of the reasons these funds are provided to different groups, that apply, is the funded service must be unique. He inquired, at the committee meeting, about what was unique about the Epworth Home, the Central Midlands Regional Transit Authority and the Girls Scouts. He agrees Homeworks is a unique group.

Ms. Teasdell stated what is unique about all of the public service programs is that HUD required continuum of care. The Girl Scouts offers girls an opportunity to be able to participate in a program that otherwise they would not get to because it is for LMI. They would not have the opportunity to purchase the uniforms. The Girl Scouts ensures they are LMI. The majority of the families that Girl Scouts goes after have incomes of \$20,000 or less for a household of four. This year, Epworth is doing a new home for persons that have aged out, and are going to be homeless. As far as the CMRTA, some bus stops have elderly persons standing. There are no seats or coverings, so they are exposed to the elements. They believe the bus shelters will be beneficial to the citizens in unincorporated Richland County.

Mr. Malinowski stated, in the future, we need to eliminate the word unique and make LMI a qualifier.

Mr. Walker stated he agrees with the fundamentals of the programs, and the emphasis on helping those that need it. He fundamentally disagree with funding anything for CMRTA.

Mr. Malinowski moved, seconded by Mr. Walker, to divide the question.

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

The vote to divide the question was unanimous.

1. Home Works of America

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

Present but Not Voting: Kennedy

The vote in favor was unanimous.

2. Epworth Children's Home

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

Present but Not Voting: Kennedy

The vote in favor was unanimous.

3. Central Midlands Regional Transit Authority (CMRTA)

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

Opposed: Malinowski and Walker

Present but Not Voting: Kennedy and McBride

The vote was in favor.

4. Girls Scout of South Carolina

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

Present but Not Voting: Kennedy

The vote in favor was unanimous.

- e. Homes of Hope/South Edisto Project [TO DENY] – Ms. Terracio stated she is unsure why this item has been recommended for denial.

Ms. Myers stated there were questions raised as to the cost per acre. Our contribution was to be used to purchase land. It seemed, the per acre cost, was not consistent with the area. Other members raised concerns as to the value of the benefit to each person who would be getting an affordable home, and if we were overpaying. The concern, on the other side, is that we recognize that the County had made a promise. There were concerns, that having made that promise, Homes of Hope had extended themselves and engaged others.

Ms. Terracio inquired if the price seems to be inflated in comparison to other land prices in the surrounding region. She inquired if there could be any improvements made that would allow us to move forward with the project. She recommended deferring the item for 6 weeks to receive additional information.

Ms. McBride stated the committee valued the project. It was looking at the overall cost of the project. She stated we support affordable housing, but we questioned, at that time, whether it was affordable. The other area of interest is the matter of which we evaluate grants. Based on her experience as a grant reviewer, we used external contractors to evaluate the grants to ensure fairness. She suggested the Administrator look at an external evaluator. In addition, there needs to be some type of grid, so you can look at the different areas and apply points.

Mr. Manning stated he is not as clear as he would like to be about why the committee denied it, when he is also hearing there were some questions they did not feel like there was a good answer for, at the committee level. He was glad the Homes for Hope representative was in attendance and he answered some questions. While they presented, what they presented, he does not know that he was listening to hear that presentation to be answers to questions that he is not sure what the questions were in the committee.

Mr. Manning made a substitute motion, seconded by Mr. Malinowski, to refer this item back to the committee.

Mr. Jackson stated this is one of the problems, when you exercise your right not to vote. When you wonder why it was denied, only one person on the committee voted. The rest of the members did not vote on this issue. That is why the one vote for denial passed as a unanimous vote. So, tonight here we are with the issue that, though people were having difficulty with, they chose not to cast their vote regarding how they felt about the issue. As it relates to the issue that he has with it, his concern dealt with the cost to purchase the land, and whether or not it was market value. When he asked if the cost could be negotiated, he was told “no”, which surprised him that the lock-in price for land could not be negotiated, at all. Because that would seem to be an inflexible response, as a member of full Council, he would be opposed to agreeing to the deal. He feels the costs should, and could be negotiated down.

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

The vote in favor was unanimous.

17. **REPORT OF ECONOMIC DEVELOPMENT COMMITTEE**

- a. Authorizing the relocation of certain property situated in Richland County and located in the I-77 Corridor Regional Industrial Park (“Park”) from Phase I to Phase II of the Park – Mr. Jackson stated the committee recommended approval of this item.

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

Present but Not Voting: Kennedy and Manning

The vote in favor was unanimous.

- b. The Village at Sandhill 2019 Assessment – Mr. Jackson stated the committee did not have a recommendation on this item.

Mr. Walker moved, seconded by Mr. Malinowski, to approve this item.

Mr. Jackson stated this item deals with the Village of Sandhills commercial development in Northeast Columbia. Last week, he held a meeting with the residents of the Northeast, but particularly the constituents of District 9, to discuss a neighborhood improvement plan. They happened to meet in the Village, at the R2i2 building located on Richland District II’s campus. While at that meeting, we allowed the community to voice their concerns about any issues in Northeast Columbia. The overwhelming concerns, and conversations, centered around the decline in the businesses in the Village of Sandhills. Because of that, the revenue is down. The group implored him to come back and get Richland County involved in trying to save the Village, and come up with strategies to address the declining tenancy rate in the Village. He gave them his word that he would do that. Unfortunately, he was not aware that the annual assessment, or tax bills, on the property would be going out this week. Recognizing the decline in the number of businesses that were there last year, but who are not there this year, those developers will now have a greater cost to bear with fewer people beneath them to help to defray that cost. He was educated on the process on how that works. He was educated on the process of the commitment that was made by those developers 14 – 15 years ago. And, he was educated on the fact that this is an annual assessment; therefore, no one should be surprised. However, he simply asked that he be given a 2-week grace period to have a conversation about how we can save the Village, while recognizing and honoring this debt on the bond that they incurred and agreed to pay. He was informed that would not be possibly. Therefore, he was not comfortable, after giving his word last week to the citizens of Northeast Columbia to do everything he could to save the Village at Sandhills, to come in tonight and vote to apply the annual assessment of \$1.8M on a commercial development that is declining in tenants almost daily.

Ms. Dickerson inquired if the Village of Sandhills is in the City of Columbia. It is her understanding, that they annexed the Village of Sandhills.

Mr. Smith stated he does not think so, but he is not up to date on all the annexations.

Mr. Malinowski stated on p. 170, of the agenda, Table D, it shows all these tax years, starting with 2013, where these are unpaid payments. He is sure that if we had not paid our taxes these would be up for tax sale. He inquired if these parcels go up for tax sale.

Mr. Ray Jones stated if they go unpaid they do go to tax sale. In each case, you see in the table, they have been redeemed, prior to the tax sale date. The table shows the taxes were not paid timely, but they have since been paid.

Mr. Malinowski stated, where it shows the 2019-2020 payment amount, is there some type of special formula that rounds up or down because many of the figures are off.

Mr. Jones stated the company that prepared the table indicated that the tables are slightly off due to rounding. They all have to add up to a specific amount, which is equal to the bond payment.

Mr. Livingston stated this is a self-imposed tax by the developer because they needed the funds for the infrastructure at the given time. For the last 15 years, this has been a pass through. His concern is what happens if this tax is not paid, and you have bonds that need to be levied. He inquired about the impact on tax bills getting out, if this does not pass.

Mr. Brawley stated, earlier tonight, Council passed the millage rate. By doing that, it keeps us on track to get our tax bills out on the normal schedule. This is a part of the tax bills for the Sandhills. As we know, the debt has to be paid. If you delay the vote tonight, it will delay the tax bills going out approximately a month, which could have an impact on the cash flow for the County.

Mr. Livingston inquired if that is the tax bill for Sandhills or the entire County.

Mr. Brawley stated it is for the entire County.

Ms. Myers requested Mr. Brawley to explain why the Village at Sandhills tax bills not being run would stop the other tax bills being sent out.

Mr. Brawley stated, in order to calculate the tax bills, we have calculate everything at one time. The system does not allow separate calculations.

Ms. Myers stated she does not think Mr. Jackson is asking to have it recalculated. We discussed it in EDC, and she thought that Mr. Jackson's point was he takes no issue with the calculations. He just wanted time to speak with his constituents.

Mr. Brawley stated he does not think putting this on the tax bills would prevent Mr. Jackson from talking to his constituents. That amount is going to have to go on the tax bills whether we have a meeting, next week or 2 weeks from now because the debt has to be paid. In order for us to keep our schedule for taxes, we have worked diligently to try to make sure we could get before you tonight with the millage concerns. Again, by not passing this tonight, it will delay the tax bills.

Mr. Jackson inquired, if this passes, how quickly will tax bills be mailed out.

Mr. Brawley stated tax bills are scheduled to be mailed out at the end of October or first of November.

Mr. Jackson stated we could simultaneously have a conversation, understanding that he could say to the group, "You can expect the tax bill the first of November. As a result of that, here is what you need to be thinking about if you lost revenue in the Village."

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

Abstain: Jackson, Manning and Dickerson

Present but Not Voting: Kennedy

The vote in favor was unanimous with Mr. Jackson, Mr. Manning and Ms. Dickerson abstaining from the vote.

Mr. Manning moved, seconded by Ms. Terracio, to reconsider this item and the Millage Ordinance.

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

Abstain: Jackson

The motion for reconsideration failed.

18. **REPORT OF THE RULES AND APPOINTMENTS COMMITTEE**

a. NOTIFICATION OF VACANCIES:

1. Accommodations Tax – Two (2) Vacancies (1 applicant must have a background in the lodging industry & 1 applicant must have a background in the cultural industry)
2. Hospitality Tax – Three (3) Vacancies (TWO applicants must be from Restaurant Industry)
3. Employee Grievance Committee – Seven (7) Vacancies (MUST be a Richland County employee; 2 seats are alternates)
4. Board of Assessment Appeals – Two (2) Vacancies
5. Board of Zoning Appeals – One (1) Vacancy
6. Building Codes Board of Appeals – Five (5) Vacancies (ONE applicant must be from the Architecture Industry, ONE from the Gas Industry, ONE from the Building Industry & TWO from Fire Industry as alternates)
7. Procurement Review Panel – Two (2) Vacancies (One applicant must be from the public procurement arena & one applicant must be from the consumer industry)
8. Planning Commission – Four (4) Vacancies
9. Internal Audit Committee – Two (2) Vacancies (applicant with CPA preferred)
10. Community Relations Council – Two (2) Vacancies

11. Township Auditorium Board – One (1) Vacancy
12. Richland Memorial Hospital Board – Five (5) Vacancies
13. Airport Commission – Three (3) Vacancies
14. LRADAC – One (1) Vacancy
15. East Richland Public Service Commission – One (1) Vacancy
16. CMRTA – One (1) Vacancy

Ms. Newton stated the committee recommended advertising/re-advertising for the vacancies.

Ms. McBride inquired about the procedures for advertising, and who does the advertising, to ensure that the entire Richland County community is aware of the vacancies.

Ms. Roberts stated we send the advertisements out through The State newspaper. The ads run for approximately 2 weeks. In addition, we utilize Cola Today. Occasionally, we have also used our PIO Office to promote the vacancies.

Mr. Livingston inquired if we utilize our website.

Ms. Roberts stated that we sometimes utilize the website.

Ms. McBride stated she noticed, looking at other cities, they use their website, but in addition they use local/community papers. There is such a thing as a public service announcement that we could get the word out. She thinks we need to expand our efforts to announce the vacancies that we have. She would like for us to work on that.

Mr. Manning inquired, as a part of the advertisements, do they include what the committees do. He stated we just put out there, hit or miss, helter-skelter, with a paper that used to be in this town, and sometimes our PIO Office. Even if you happen to see those wonderful places, you do not have a clue what it is.

Ms. Newton stated the descriptions for the boards and commissions, and their requirements, are listed on the Richland County webpage.

Mr. Manning stated we might want to reference that on the application.

Ms. McBride stated she would like a report back to the Council on the new procedures that have been put in place for advertisement.

**POINT OF ORDER:** Mr. Malinowski stated we are here to vote on these items that came from the Rules & Appointments agenda. He recommended that Ms. McBride make a motion, so that it can be forwarded to the committee.

Ms. McBride stated she would be glad to do, but her statement stands.

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

Opposed: Manning

The vote was in favor.

b. NOTIFICATION OF APPOINTMENTS:

1. Community Relations Council – 2 – The committee recommended re-advertising these positions; and were included in the previous item.

19. **REPORT FO THE TRANSPORTATION AD HOC COMMITTEE**

a. ITEMS FOR INFORMATION

1. Cash Flow Presentation – First Tryon – Mr. Niermeier stated First Tryon is not in attendance tonight, but they can be here in 2 weeks to address the two different models, outlined in the agenda packet, as well as, how the pay-as-you-go model would look.

Ms. Newton stated, for clarification, the cash flow model is presuming that we will not have to pay the \$52M to SCDOT.

Mr. Niermeier responded in the affirmative.

Ms. Newton stated, for clarification, the Richland County Transportation Department costs listed is the costs for the team that is going to be managing this program in-house.

Mr. Niermeier stated that is actually the worst case scenario. It is highly likely that number is going to be significantly less.

Ms. Newton requested to see the estimates upon which the assumptions were based.

Ms. Myers stated we have consistently said that we are going to realize cost savings from changing some of the requirements under the referendum and scaling down these projects. The standing question remains whether or not we have the authority to do that without 3 Readings and Public Hearing. She requested something in writing, by the October 15<sup>th</sup> Council meeting, from Legal telling them exactly what to do since the money is being counted in the budget.

2. Legal Opinion on State law regarding entities financial responsibility – Mr. Niermeier stated Ms. Malane Pike briefed the committee on this matter. The bill requires any entity undertaking a transportation project to bear the cost related to relocating water and sewer lines up to 4% of the original construction bid amount for large utilities, and a 100% of the original construct bid amount for small utilities. The bill does not impact prior rights. The only project this pertains to, at the moment, is Blythewood Road Widening, where there is an agreement with the Town of Winnsboro, so we would be assuming the cost for relocation of the water lines.
3. Blythewood/SCDOT Maintenance Agreement Update – Mr. Niermeier stated the Ad Hoc Committee requested staff and the PDT to go back and renegotiate the agreement between the Town of Blythewood and SCDOT for maintenance of the Shared-Use Path. On September 23, the Town of Blythewood voted to approve it, and signed their half of the agreement. The agreement is now back with SCDOT to be signed appropriately. Thus removing the County from the middle of the agreement.

4. Policy for addressing projects over the 2012 referendum amount – Mr. Niermeier stated what they presented to the Ad Hoc was a preliminary assessment, independently done by the engineers and project managers of the Transportation Department. To look independently at the data they were based on and the desired intent. In addition, to look systemically to determine if there are ways we can change/modify the scope to potentially save money on developing these. The intent is to continue to work on it, and look at other factors (i.e. utilities) and bring it back to the Ad Hoc in October with formal recommendations.

Mr. Jackson stated one of the critical points made in the committee meeting was that where expenditures of funds have occurred, by the County, we did not want to walk away from those costs that have been incurred and to make sure there is a plan.

5. Transition Update – Mr. Niermeier stated there has been a lot of work done by staff, the PDT, Administration, as well as, other departments within the County. They have released 2 RFQs and 1 RFP. The On-Call Engineering Team RFQ was released on August 2, and closed on September 18. Eighteen submissions were received and are currently being evaluated. The Construction, Engineering & Inspection RFQ was released on August 29, and closed on September 27. They received 16 responses and are currently under evaluation. The RFP for Staff Augmentation was released on September and will close on October 11.

Mr. Walker inquired if all the RFQs and RFPs are flowing through the County's standard procurement process.

Mr. Niermeier responded in the affirmative. He stated the next RFQ they need to release is for Geotechnical/Material Testing. The County has a similar existing contract out right now that is rather dated. They are coordinating the Planning & Development's Conservation Division for the mitigation bank maintenance, which was something the PDT maintained. They have hired three of the four new Project Managers/Engineers. All four of the CE&I Inspector positions have been filled. Additional positions, needed immediately, will be filled through the CE&I RFQ. They anticipate 5 – 7 positions to be filled with the Staff Augmentation RFP. They have access to all the PDT Penny Program server and FTP site. Having access has been critical in assumption of the projects. During the financial transition discussions, the reconciled data was requested and delivered from the PDT. It is in the Finance Departments possession. This will support any past financial audits that we are going through, as well as, allow us to map the data from the PDT into our own system. They are coordinating the move of some of the right-of-way documentation, in concert to a lot of the other furniture (file cabinets, tables, plotters, electronics) from the PDT office. The 2<sup>nd</sup> financial County turnover meeting was held to discuss computability and whether we need to assume any of the software needs. The PDT will provide reconciled data up to June 30, 2019, and then a final reconciliation will take place at the end of the program.

Mr. Walker requested some insight, as it pertains to the final reconciliation, at the end of the contract. He stated, typically, when he manages a construction contract or project, there is a retention portion of the contract at the end that makes sure that all outstanding obligations are fulfilled prior to releasing the contractor from the obligations. He inquired if our contract contemplates a retention, and if so, what percentage/amount would be retained.

Mr. Niermeier stated he does not the answer to that question. He stated they pay monthly, which is a part of the agreement. There is not a retainage withheld from that monthly payment. There will be a final payment going into October, when we are looking at either needing to add

more money for construction and inspection or a refund of money allocated for construction and inspection.

Mr. Walker stated, if all things stay the same, there would be some kind of pay application remitted for the PDT's October management fee. It will subsequently be paid, and that represents final payment to the PDT, in advance of completion of the contract.

Mr. Niermeier responded in the affirmative. He stated there would likely be one final invoice for reconciliation, if there were a retainage that needs to be released. We would be sure that we are compliant with any deliverables they owe us before that would be released. If there is more money required, that we have agreed to, for construction management or inspection, that will be reconciled at that time.

Mr. Walker stated, to correlate this line of questioning to his overarching concern, if there were any...we have been in a 5-year very large, very detailed, very intricate working arrangement with the PDT. As it stands today, if we remit final payment, to the PDT in October, and this contract goes away November 3<sup>rd</sup>, and liability arises, as a result of some activity over the past 5 years, without some type of retention period, and lookback (i.e. audit results), we would have handed away our only recourse to claw back or otherwise retain dollars that could potentially be punitive to the County and the General Fund. On our current path, we have no opportunity to retain or claw back any dollars that could ultimately be used to offset any liabilities raised in the future.

Mr. Jackson stated whatever is not included, was not included in the original contract, unless we now decide to, as a body, modify or amend the contract, it is not in the contract that ends at the end of this month. He is referring to point that Mr. Walker just made, in terms of the ability to hold funds back until some period in the future, in the event that there may be liability that we incur. He stated, if we did not identify that to be a part of the contract, could that be imposed now.

Mr. Smith stated you could not unilaterally amend the contract, meaning that if there are no terms and conditions that currently exist in the contract, which would allow for that, then obviously we could not unilaterally amend it to include that.

Mr. Jackson stated the funds that have been given to the PDT, up to this point, are for items that have been delivered. He inquired if Mr. Beaty will be receiving any monies for which he has not provided the deliverable, between now and the end of this month.

Mr. Beaty stated he would not.

Ms. Myers inquired if the contract allows the County to hold back funds that it deems disputed or improperly paid. She stated we have a unilateral right, under the contract, to withhold funds if they are deemed overpaid or improper.

Mr. Smith stated there is a provision in the contract that deals with overpayment. There may be a provision, in the contract, that deals with a situation where we go in and inspect something and find that it is not correct, we could, perhaps, withhold funds for those reasons.

Ms. Myers inquired, if it would be prudent, prior to making the final payments, reconciling and checking to be sure that...once the money is out the door, nobody is going to bring us a check back, and the PDT will no longer exist. She inquired if there some prudence in saying we would

reconcile before making final payments, under the contract. As Mr. Walker points out, there is likely coming some audit that may tell us whether or not amounts that we have deemed prudent are even prudent. She stated it might be wise given that we have 2 final payments. Mr. Niermeier stated we have the current pay app in hand, we will have the final from October, and potentially a reconciliation payment after November.

Ms. Myers stated it might be wise to begin that process while there is still something to be talked about rather than doing it once we have paid all the pay apps.

Mr. Smith stated there is a specific provision, which says, if any inspection by County, or its representatives, of contractor's records, books, correspondence, instructions, drawings, receipts, vouchers, memorandums, or other data, related to the contract documents, reveals an overcharge, the County may deduct said overcharge from any payments due contractor. If no funds remain due the contractor, the contractor shall, within seven (7) calendar days of receipt of such written demand for repayment, tender the amount of such overpayment to the County to otherwise resolve the demand. That the County would have the ability to inspect and determine that all things are appropriate.

Ms. Myers stated, for clarification, Mr. Smith said it is an inspection of records, books, correspondence, drawings, etc. Much of which has been given to us in a million-page dump. The inspection might be a little bit difficult, but that is the basis on which we can make a determination.

Mr. Smith responded in the affirmative. He stated if any of those things indicate there has been an overpayment to them, then the contract gives the County the right to deduct those overcharge payments from whatever amount they are due.

Ms. Myers inquired if a motion is in order, based on what we have been given.

Mr. Livingston stated we are doing the transition update for information.

Ms. Myers inquired if a motion arises out of the discussion why cannot we put it on the floor.

Mr. Smith stated he is going to leave the decision to the Chair, but he thought these were items for information.

Mr. Livingston stated there would be time to make the motion, or you can let staff know where you are and what you are thinking so they can work on it.

Ms. Myers stated, if that is where we are, and we know we have 2 payments left, we also know that there is coming a day when we are going to be given audit results. She would suggest that we hold those payments pending reconciliation and some analysis from DOR that lets us know if our assumptions are right. If our assumptions are wrong, there is no recourse. It seemed to her that we would get underway a final reconciliation, and that those 2 payments would not be made until we have gotten clearance. Otherwise, she does not see how it is prudent to make those payments.

Ms. Newton stated Mr. Smith read a section that talked about overcharging and deducting from payments. She stated we are currently in litigation with the PDT over certain charges, so how does that apply to this closeout and our final payments.

Mr. Smith stated the litigation that we are currently involved in, with the PDT, is in relation to reimbursable. We went through a process, as part of that litigation, to go through formal mediation, which was not successful. It is his understanding, there may be, or there intends to be some discussions about a potential resolution of that particular matter. The County certainly has as an option, if it is not resolved, to resolve it through those means.

Mr. Manning inquired if the audit that was referenced is going to be done by the audit committee, which we are currently advertising vacancies for. He requested more information about the audit.

Ms. Myers stated she referenced the DOR audit.

Mr. Manning stated several months ago, we had a work session and there were a whole bunch of questions asked. He inquired when the answers would be forthcoming.

No response was given to Mr. Manning's inquiry.

Mr. Jackson inquired, since the DOR audit has been referenced, is it prudent or reasonable to establish a window of time, or timeframe, that if you are going to withhold someone's payment, if something has not materialized, that it would be released. He stated he was saying that to preempt the potential motion that may come before Council. He is not opposed to withholding funds, in the event that there may be determination by another source, that this some overpayment. He wants to make sure that if in fact that happens that is not done indefinitely because we have been waiting now on an audit for some period of time. It has been going back and forth to the different levels of court. He does not think that it is fair to penalize a vendor by withholding their funds for work they have performed in anticipation of an audit that we have no idea if, and when, it will materialize. Moreover, if it does, if it will in fact implicate the vendor that we are withholding the funds for. He thinks that is a big stretch by anyone's determination. The final question would be who determines whether there has been an overpayment. Someone used the term we are in litigation. We are not in litigation. We had a dispute. It was taken to mediation, but there is no formal litigation currently going between the County and the PDT.

Ms. Myers stated her comments are based on the Supreme Court's ruling that is binding on this body, the PDT, and everybody in the State of South Carolina. The Supreme Court made a ruling, back in March, that told us what they thought were allowable expenses, and what were not allowable expenses. We then asked to go back to DOR and debate with them. There are pretty bright lines in that Order. Her concern is that where we are now is that we have a binding, non-appealable Supreme Court Order, which told us, beyond a shadow of doubt, that some of these payments are not allowable. She thinks it is prudent to be more, rather than less, cautious and to err on the side of holding back funds that may be in dispute. She stated she has been nervous about the Supreme Court opinion, since it came out. It is her opinion that opinion gave us some narrow guidelines that we have been trying to negotiate around. It seems to her, since this contract is ending, and the right under the contract belongs to the County, and it is a unilateral right. We have the right, under that contract, to withhold funds that we believe should not be paid. There should be some finite period to it, but not holding the funds back, in her opinion, would be foolhardy.

Mr. Livingston inquired if we can trust our reliable staff to come back with a recommendation, based on this discussion.

Ms. Myers inquired if staff is going to approve the payments before they come back with a recommendation.

Ms. McBride inquired as to what staff would be coming back with the recommendation.

Mr. Brown stated he is not answering the question because that is a vague question. He inquired if the question is if Transportation will process the payment of the request. He inquired if Council is saying, "Transportation do not process any future invoices, so that they do not get into the system." In order for them to get into the system, to be paid, they have to start with someone putting them into the system for payment. On the other hand, are you saying, "Mr. Administrator, have you heard us speaking, and in so many words, do not approve what is in the workflow for the PDT."

Ms. Myers stated that is why she was asking if a motion was in order. She knows what her personal opinion is, but she does not have the right to make that kind of decision without a vote of Council.

Mr. Livingston stated this is not in order because this is not an action item, and many of the Council members have not had the privilege to prepare for this particular discussion. He does not know why it would make any difference between now and our next regular meeting.

Ms. Myers stated we would not have the money. We are deciding whether we would pay out the money.

Mr. Brown stated, one of things that has been brought to his attention that we need to talk about whether the funds we are withholding, that are sent to the PDT, some portion is remitted to the contractors. He stated, when we receive the pay app, and they say this is the work that has been done, remit us this payment, we do not know specifically if they are taking that money and paying the contractors or if the PDT is taking those funds. Clarity wise, he thinks there is a bigger understanding he would like to hear, so that we can figure out how we serve your need, but at the same time, not get into a situation where contractors are not being paid and we are stopping work.

Ms. Myers inquired if the contract allowed for direct payment to subs.

Mr. Smith stated he did not have the contract in front of him. He would have to go back and take a look at whether there this a provision which allows that.

Ms. Myers stated, if the Chair is ruling that a motion is not appropriate at this time, she would like to go on record as saying, she thinks it is entirely inappropriate to make payments,, under the contract, knowing that we are 32 days from its end, and there may be a dispute about large sums of money that are being paid out of the County. To the extent, that we could vote to hold it. It is not as if we have a year. She does not know that that is dispositive of the death spiral for a company that is disbanding anyway. She would like for Council to be allowed to take a vote on what it is a very critical matter.

Ms. Dickerson dittoed Ms. Myers and Mr. Walker's concerns about the final payments.

Mr. Walker moved, seconded Mr. Malinowski, to reconsider the agenda.

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

Opposed: Jackson, Manning and Livingston

The motion for reconsideration passed.

Mr. Walker moved, seconded by Ms. Myers, to move Item 19(a)(5): Transition Update to Item 19(b)(1) and renumber the remaining action items.

Ms. McBride stated she agrees with Mr. Manning. We have had some many questions unanswered, and at this time, with all the different issues that have not been addressed, she has concerns about voting on this item. She thanked Mr. Jackson for doing an excellent job with the Transportation Ad Hoc Committee, but she has some real concerns regarding the processes in place because we cannot explain all the different questions that are still coming up. She does not know who is directly working with our Transportation Department. How close legal is working with them. Who is responsible for what, and she, in good faith, cannot take a vote on this item.

Mr. Walker stated, with all due respect, the more questions there are, in his opinion, the more reason there is for retention of funds.

Ms. McBride stated she is not sure whether the actual closeout takes place within those 31 days, if there are some irregularities that are dealt with. She does not know the urgency. We could always have a Special Called meeting.

Mr. Jackson stated, in his experience, each time we have hastily voted on issues, requested records and files to be sent, and dealt with people's future status and positions, we have made some very bad decisions, without having all the facts. Only later to find out that what we were voting for was not what we wanted. He thinks hastily voting to withhold funds for work that has been done and signed off on, in the past, by both our vendor and County staff, even if it is in question now, was not done in a vacuum or in an isolated way by an external vendor without the County's knowledge. To now suddenly hold the vendor hostage, while we wait on a possible DOR report, that may or may not implicate that vendor, is grossly wrong. He does not disagree with the Supreme Court, but what they did do was direct it back to the DOR, who then began to negotiate with the County, not the vendor, to determine whether there is any violation of overpayment. If anybody's funds should be withheld, we should be withholding our own funds because we authorize payments that are now in question by the Supreme Court. The external vendor had no authority to spend any money, without a County appointed staff member, in the equivalent position of the Director of Transportation. To now suggest they may have done something illegally, overspent money or inappropriately spent money that somehow we did not know about as a County, when we signed off on every one of those, is being disingenuous. Every payment that was made to that vendor was authorized, and signed off by, an official representative of the County. If there is anybody he wants to hold responsible it is those County officials, that are no longer here, who approved those payments that are now in question of being illegal.

Ms. Newton stated she is not accusing any illegality or anything like that. She recommended we bridge the divide. One of the questions, from her perspective, that is unanswered, is what the closeout process is. We want all of our vendors to be paid. We are acknowledging there is information missing about the closeout process and about what the contract says. She does not feel like we are trying to hold things up in perpetuity.

**POINT OF ORDER:** Mr. Malinowski stated we have a lot of discussion taking place, and the vote has not been taken on whether we want to move this to an action item.

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

Opposed: Jackson, Manning, Livingston and McBride

Present but Not Voting: Kennedy

The vote was in favor.

Mr. Livingston inquired, according to our rules, what is required to add an action item to the agenda on the day of the meeting.

Mr. Smith stated there was a motion made to amend the agenda. That motion passed; therefore, the agenda was amended to move the item from information to action.

Mr. Livingston stated, for clarification, so we added an action item to the agenda.

Mr. Smith responded in the affirmative. The item was already on the agenda. It was just in a different place.

Mr. Livingston stated what you are doing is adding an action item to the agenda.

Ms. Myers stated it is not adding an action item. It is moving an item from one place to another on the agenda, which is different than adding an item.

Mr. Smith stated, when the Chair said he added the item that implies that the item was otherwise not there. You amended the agenda to take it from information, one place, where it was already on the agenda, to another place on the agenda, which now requires that Council act on that item.

Mr. Jackson stated, for clarification, the item that was moved was a Transition Update. The item being debated, to be voted on, is not the Transition Update. It is a specific subpart of that, so that would be adding that. That is a new item. The item on agenda, for information, simply says, "Transition Update" not "Withholding Funds from the Organization".

Mr. Livingston stated they added a new item to the agenda.

Mr. Walker stated the financial update, within the transition update, makes the motion and conversation germane to the original agenda item.

Mr. Jackson stated there are multiple items in the Transition Update. Are we now selecting that one only to vote on? There are other items in there that should be voted on, if we are going to vote on the Transition Update, as a whole.

Mr. Livingston inquired as to what is a required vote for the motion, based on our rules. Although it was discussed, it is a new action item added to the agenda.

Ms. Myers stated, with all due respect, it is not a new item. Calling it a new item takes it into a category that steers it into a required unanimous vote. We were discussing an item that was on

the agenda, as an item for information. We asked to move it to a 2<sup>nd</sup> place on the agenda. This is not an item that was not on agenda, and categorizing it that way is trying to move it out of discussion completely. In her opinion, that is not fair. It was fairly before us, just not as an action item.

Ms. Dickerson stated she is not participating in anything that is illegal. What we were talking about was reconciliation. For someone to insinuate that we are talking about something illegal, she has a very serious problem. She is trying to get information to make a decision, and that is what she wants.

Mr. Walker stated he in no way implied any illegality in this conversation. We are waiting on some outstanding findings. It would be prudent to build a buffer against the potential outcome of these findings.

Mr. Walker moved, seconded by Ms. Myers, to withhold any remaining management fee invoices, whether they have been applied for currently, or to be applied, until such point that our Legal Department advises that we have allowed sufficient time to pass to appropriately defend against potential liability arising from the duration of the contract.

Mr. Livingston inquired if it Mr. Smith's opinion that this item is not a new item. It is just an item that is being transferred to another space on the agenda.

Mr. Smith stated it is not a new item.

Ms. Newton stated, under "Project Evaluation", we have talked about the review for projects that are over the referendum. Look at closing out one phase of the program, and moving to another, we will be transitioning project managers for several of our ongoing projects. She was wondering how Mr. Niermeier felt about those projects, in terms of our capacity to keep them going. If he is anticipating coming back to Council, in terms of making changes to the program. She stated she was wondering if there is any additional information about the projects that are ongoing, and not on hold.

Mr. Niermeier stated there is a great deal of information. The program plan, moving forward, is something they worked with the PDT partners, in way of a draft CTIP plan. The cash flow plan shows the funding for what we anticipate letting out in the next week, 2 weeks, month, 2 months, 6 months, etc. He stated, across the board, staff members that will be running the projects feel good about where they are. There is a high level of confidence they can adequately, and professionally, execute the projects that are ongoing, and the ones that are coming up.

6. Dirt Road Program Update – Mr. Niermeier stated the Dirt Road Program Update was presented before the Ad Hoc Committee, wherein we talked about where it has been and where it is going.

Mr. Beaty stated the program included \$45M for dirt road paving. To date, approximately \$22.5M has been spent or is under contract. Originally, there were 596 individual dirt roads, which totaled 223 miles. To date, approximately 50 roads have been completed. There is active construction going on with four (4) different packages. An additional dirt road package will be available for procurement prior to the PDT contract ending. Of the original 596 roads, 133 have been dropped per the ordinance and the consent/denial process.

Ms. Dickerson stated, for clarification, we had 223 miles of dirt roads.

Mr. Beaty responded in the affirmative.

Ms. Dickerson stated, for clarification, we paved 50 miles.

Mr. Beaty stated we did 50 dirt roads, but not necessarily miles. There are 596 dirt roads, and many of them are very short. The total length that has been paved is 8.6 miles.

Ms. Dickerson stated, in 5 years, we have paved 10 miles.

Mr. Beaty responded in the affirmative.

Ms. Dickerson inquired about how many miles have been procured, to date.

Mr. Beaty stated there is probably another 2 – 3 miles that is under construction. He took this opportunity to clarify that the PDT did not begin managing the Dirt Road Program until July 2018.

Ms. Dickerson stated in all this time we will be looking at less than 15 miles of road being paved by the end of the PDT contract.

Mr. Beaty stated the program has spent about half of the money.

Mr. Malinowski inquired, under the heading “Project Status”, who determined, and what is the interpretation of “remove from construction package”, “dropped from consent/denial”, “dropped for property issues” and “dropped because of staff recommendation”.

Mr. Beaty stated the County’s ordinance says that if 25% or more of the property owners on a road do not want the road paved, it drops. Then, assuming that it moves forward, design is initiated or continued. The designer, and their agents, go back out to the same property owners, and they say, now that we have done the design, we need to buy some right-of-way from you. Now the property owner may change their mind and refuse to sell any of their right-of-way. At that point, your policy says, you do not condemn for right-of-way, so the project is moved on. You could also have issues with permitting or items identified during construction, and staff may recommend that the road not move forward.

Ms. Myers noted we discussed this in the ad hoc committee, and she would like it to be clear many of the roads were moved off the list, and other substituted. Her concern was the constituents, whose roads were moved off, who had already consented to have those roads paved, were not then subsequently notified, nor were the Council representatives. Her concern is, in substituting new roads for the old roads, we need to make the citizens that have an expectation aware. It may well be that one person, who constitutes 25%, could have said they do not want to give a right-of-way, but you could have everyone else giving that right-of-way sitting and expecting their roads to be paved. She thinks rather than moving forward with new projects, we need to revisit that. At least those who represent constituents that live on these roads, probably need to be a part of this rather than staff just moving them off the list and substituting new roads.

Mr. Jackson inquired as to the plan for the dirt roads, which have not been completed, with the funding, once the program moves in house. Will it fall under Public Works? Who will be specifically assigned to take up this project?

Mr. Niermeier stated on the project manager is assuming all of the dirt road packages that are currently under construction, as well as the ones moving forward.

Mr. Jackson inquired if that work will then be contracted out.

Mr. Niermeier stated it will be managed similar to how it is being managed now.

Mr. Jackson stated he was wondering whether those that are doing the dirt road projects will continue or will the project manager go out and do a new RFP to bring in new people and start the process over, as it did when the PDT had to take over for the failed dirt road program.

Mr. Niermeier responded the whole function will be in-house and they will be managing it from beginning to end.

b. ITEMS FOR ACTION

1. Transition Update – Ms. Myers moved, seconded by Mr. Walker, to hold the remaining payments to the Program Management Team, not payments to subs, until the reconciliation that Mr. Niermeier referenced is complete or until we have gotten a clearance from the Legal Department that we should move forward with those payments.

Ms. McBride inquired if there will be any legal liabilities with us withholding these payments.

Mr. Smith stated he will go back to the terms of the contract, and would suggest as long as we are consistent with that there should not be any legal liabilities.

Ms. McBride stated, for clarification, there should not be any legal liabilities, pursuant to the terms of the contract.

Mr. Smith responded in the affirmative. The terms of the contract spell out under what circumstances we can do this.

Ms. Terracio stated, if she is hearing this correctly, it seems like we are just giving everything an extra set of eyes and extra layer of scrutiny to ensure that what we are doing is the absolute right thing to do before any money leaves the door.

Mr. Jackson inquired as to who will be in charge of conducting that process.

Ms. Myers stated her motion said the reconciliation by the staff or clearance from the Legal Office, which every of the two is earlier.

Mr. Jackson inquired as to what department will determine whether there are no violations, in order to release the funds. Moreover, when should we expect that answer.

Mr. Smith stated, in terms of the things that you have discussed, you have talked about DOR, and the fact that DOR is conducting an audit. DOR is applying the guidelines, which, came out of the Supreme Court decision, when looking at the payments. When we will get the results of

that audit, he does not know. Staff would then be responsible for looking at what DOR has suggested has occurred, and we would have the ability to come back to Council, as it relates to that part of it. As it relates to the reconciliation, he would say that is an operational issue and would defer to staff.

Mr. Brown stated he wants to be cognizant and make sure he is being helpful, so that Mr. Niermeier can do this job effectively. Mr. Smith just stated DOR is going to give us guidelines that staff also needs to be able to use to make sure that we have conducted the reconciliation appropriately. Separately and apart from that, he needs to be working on what he knows now, but he is going to have the same partial challenge that Legal will have. He is going to have what he knows to be the information, and the contract, but that is still outside of the purview of what DOR is going to come back and say. He expects Mr. Niermeier, and his team, to conduct that process, with what they have now, as well as the contract that we have in place. We are still waiting on finances. He stated he is not doing some things right now because DOR has some things that we are waiting to hear back on, separate and apart of what we are talking about now. There are some actions that he is not allowing staff to take because we do not have information back from DOR. To that end, he would expect staff to begin the process of what we have in hand, with the contract that we have, and the reconciliation that we know needs to be done. Separate and apart from that, we will also need to understand what has DOR said about their findings about the process. That will certainly impact our vision and scope, based on what the DOR says, regardless of what Mr. Niermeier says.

Mr. Jackson stated, the vote we are about to take, and the answer to his question, is we do not know because we will have to wait to hear from DOR. It could be a month, 3 months, 6 months, or 8 months.

Mr. Brown stated the latest information he received was that DOR was waiting on information from someone else. They are done with us, but they are not done with the total process.

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

Opposed: Jackson, Manning and Livingston

Abstain: McBride

Present but Not Voting: Kennedy

The vote was in favor.

2. Greenway Project Funding Alignment – Mr. Jackson stated the committee recommended approval of this item.

Mr. Malinowski stated, according to the committee agenda, we are taking funds from projects that are not going to be done and adding them to another. We had thousands of people that voted for this referendum, based on a list of projects they saw. He does not think it is the fair way to do it, and he cannot support it.

Mr. Jackson stated one of things they were told was that the dynamics have changed, and where there were plans for greenways to be established, that area no longer exists for a greenway to be installed. Where there were greenways leading to nowhere, although they were approved, they are no longer functional or possible to establish. They are not going to go

in simply because the topography or the landscape that currently exists did not exist 12 years ago. Therefore, that is why the recommendation was that reassign those dollars.

Mr. Malinowski inquired if we are completing all of the greenways that were listed in the referendum.

Mr. Jackson responded that we are not.

Ms. Newton stated, for clarification, when we vote on this process, to make it official it would require three readings and public hearing. She inquired if that explicitly needs to be a part of the motion to have that happen.

Ms. Terracio inquired if this would be considered First Reading.

Mr. Manning stated, for clarification, the moving is within the same greenway and not a new greenway or moving from one greenway to another greenway.

Ms. Newton stated, to Mr. Manning's point about moving within the greenways budget that is correct. In some cases, it may be moving from A to B. However, the end result is that some greenways that were planned would have happened at all, and in effect are being eliminated.

Ms. Terracio stated, we have, in our agenda packet, comments from people that they did not want A or B, but really did want C. The public has had a chance to make their preference known, so we are considering those things as we move forward.

Ms. Myers inquired if that included Ms. Newton's refinement of three readings and public hearing. She stated she is in favor of the item, but not without the stipulation of three readings and public hearing.

In Favor: Terracio, Jackson, Kennedy, Manning and Livingston

Opposed: Malinowski, Newton, Myers, Walker and McBride

Abstain: Dickerson

The motion failed.

Ms. Myers moved, seconded by Ms. Newton, to place this item back on the agenda for three readings and a public hearing.

Mr. Malinowski inquired if the motion is in order.

Mr. Smith stated he has had this discussion with Transportation and several of the Council members. In terms of this process, he has suggested instead of bifurcating the project that Council needed to determine how it wanted to handle all these things and make a list. Then, you can vote on them and give those three readings and a public hearing at the same time. The motion itself is in order; however, he would suggest making a list, with a rational basis for why you are making these changes, and doing them all at the same time.

Ms. Terracio stated, having had many conversations about greenways, bikeways and sidewalks, she would suggest, because the greenways are such a special category, they get their own three readings and public hearing. Then, maybe we treat different categories separately.

Mr. Manning stated Mr. Smith said there were several times in the past that we were looking at making some changes, and there was a discussion about three readings and a public hearing. We have never done that yet, so he is hopeful that we can go back and get a list of every time there was discussion, over the past 5 years, about whether something took three readings and public hearing, and we make all those null and void. He would like to have that list by the end of the week.

Mr. Malinowski stated he is still not sure about the properness of the motion. We have already voted on this matter, and now we are bringing something back that we have already voted on.

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

Opposed: Malinowski, Jackson, Kennedy and Livingston

Present but Not Voting: Manning

The vote was in favor.

3. Approval of Letter Recommending to Award bid for Greene Street Phase 2 – Mr. Jackson stated the committee recommended approval.

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

Present but Not Voting: Newton and Manning

Opposed: Walker

Abstain: Dickerson

The vote was in favor.

4. Recommendation for Remaining Years 3 & 4 Redesign of certain Years 1 – 2 Roads – Mr. Jackson stated the committee recommended approval.

Ms. Myers stated her concern is that we have this list of roads that have been dropped by staff, or otherwise dropped, but we have not gone back and notified the property owners. She would be reluctant to move to redesign roads and leaving other roads without understanding whether these are the roads that ought to be in Years 1 and 2. For her, she is surprised that one has been dropped from the list. It is the one road, with the 96-year old lady, she has heard about almost every week since she came onto Council. She does not think the list, as it stands, ought to be let.

Mr. Jackson stated, for clarification, according to staff, all members of the community have been notified.

Mr. Niermeier stated at some point along the process everyone has been notified. It might have been 2 – 3 years ago.

Ms. Dickerson stated she gets calls saying they do not know anything about it.

Mr. Niermeier stated these are Year 1 and 2 dirt roads, back when the County was managing the program, and we were going through the consent/denial right-of-way process as designed, those constituents/property owners were notified.

Ms. Newton inquired what Ms. Myers is suggesting. Is she suggesting a different notification process before letting the contract?

Ms. Myers stated she was suggesting the same thing that she said in committee. She knows that everyone said it would be tedious, but she hears from these people all the time and they maintain they have not been notified. She is saying that a simple notification process, before we move on, and skip over their roads, given that for many of them this is why they voted for the Penny, would be helpful. She is happy to be a part of the process by riding around and knocking on doors. She does not think the notice that was given was sufficiently targeted to reach the people that needed to know.

Ms. Newton stated, for clarification, it is not a redo of the process. It is not an opening of Pandora's Box, as much as it is a pause for a re-notification process of people that have already been reached out to by staff.

Ms. Myers stated it is to ensure they are aware, and the process, as we understand it, is accurate. Some of these roads the people have been waiting awhile. Just to be sure the residents are aware their neighbors have said they do not want it, so we are moving on to the next road.

Ms. Dickerson stated, if she sends a letter to someone, and they do not respond and let her know they received it, she cannot prove they received it. She inquired if they received responses back from the people, when you reached out to them.

Mr. Niermeier stated, he was not directly involved, but there were certified letters sent to each property owner. There are 2 boxes of return receipts back in the office from those notifications.

Ms. Myers made a friendly amendment that we take a 30-day pause and notify the property owners whose roads have been administratively dropped from the list, so we are clear that we do not want these roads paved.

Mr. Jackson accepted the friendly amendment.

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

Opposed: Malinowski, Kennedy, Manning and Walker

The vote was in favor.

Mr. Brown stated if we go out on any particular road and give letters and it just so happens that everybody on the road says they want it, but 5 years ago, there were different property owners that did not want it. He inquired if that constitutes Transportation saying we now need to do this road, or will it be us just gathering information. His understanding is the reason we were doing this was to clarify there was information that was appropriately shared, and give people the opportunity to communicate the fact staff or the PDT failed to do their job appropriately.

Mr. Livingston stated he thought the amendment was to notify people, not to change, based on the notification.

Mr. Brown stated Council just carried a motion and he is going to do it. We talk about strategy, that now work he needs to make sure he is effectively moving forward with it.

Ms. Myers stated, as a person that has 31 roads on the list that has been dropped, she would like to know...Mr. Brown's question presupposes our process was withhold flaw, and the people were reached; therefore, we should move on. What she is saying is enough of them call her for her to know that they were not all reached. She stated to bring back the information and that will need to be a new decision point. The roads were ranked in terms of priority, so if we have skipped over some of the worst roads, and we have little old ladies sitting on roads that are a quarter of a mile and cannot drive on when it rains, that is a large concern. She would like the information, so we can look at the roads and analysis it. Right now, we are analyzing some information that is good and some that is not.

Ms. Dickerson stated when you do this, maybe a small percentage of those roads will change. Maybe not all of them will change, but she is sure there will be some modifications.

Mr. Manning stated he is a little more concerned about how we will be documenting that you did indeed communicate, and who you communicated with.

20. **OTHER ITEMS**

- a. FY20—District 2 Hospitality Tax Allocations – Ms. Myers moved, seconded by Ms. Dickerson, to approve this item.

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

Present but Not Voting: Manning and Walker

The vote in favor was unanimous.

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

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

Present but Not Voting: Manning and Walker

The motion for reconsideration failed.

- b. FY20—District 4 Hospitality Tax Allocations – Ms. Myers moved, seconded by Ms. Dickerson, to approve this item.

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

Present but Not Voting: Manning and Walker

The vote in favor was unanimous.

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

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

Present but Not Voting: Manning and Walker

The motion for reconsideration failed.

- c. FY20—District 5 Hospitality Tax Allocations – Ms. Myers moved, seconded by Ms. Dickerson, to approve this item.

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

Present but Not Voting: Manning and Walker

The vote in favor was unanimous.

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

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

Present but Not Voting: Manning and Walker

The motion for reconsideration failed.

21. **EXECUTIVE SESSION**

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

Opposed: Manning

Present but Not Voting: Malinowski, Jackson, Kennedy and Walker

The vote was in favor.

***Council went into Executive Session at approximately 9:07 PM and came out at approximately 9:16 PM***

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

Present but Not Voting: Kennedy and Manning

The vote in favor was unanimous.

- a. Richland County vs. AT&T – Ms. Myers moved, seconded by Mr. Walker, to authorize the County Attorney to take all actions necessary to effectuate settlement, as discussed in Executive Session.

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

Present but Not Voting: Manning and Livingston

The vote in favor was unanimous.

b. Wright vs. Richland County and Tetra Tech, et. al. – No action was taken.

22. **MOTION PERIOD** – There were no motions.

23. **ADJOURNMENT** – The meeting adjourned at approximately 9:18 PM.