



Richland County Council

SPECIAL CALLED MEETING
December 10, 2019 – 6:00 PM
Council Chambers
2020 Hampton Street, Columbia, SC 29204

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

OTHERS PRESENT: Michelle Onley, Kim Williams-Roberts, John Thompson, Ashiya Myers, Michael Niermeier, Ashley Powell, Angela Weathersby, Randy Pruitt, Cathy Rawls, Geo Price, Eden Logan, Nathaniel Miller, Allison Steele, Christine Keefer, Ronaldo Myers, Brad Farrar, James Hayes, Dale Welch, Stacey Hamm, Judy Carter, Jeff Ruble, Tariq Hussain, Chris Eversmann, Beverly Harris, Clayton Voignier, and Leonardo Brown

1. **CALL TO ORDER** – Ms. Myers called the meeting to order at approximately 6:00 PM.
2. **INVOCATION** – The invocation was led by the Honorable Chakisse Newton.
3. **PLEDGE OF ALLEGIANCE** – The Pledge of Allegiance was led by the Honorable Chakisse Newton.

POINT OF PERSONAL PRIVILEGE – Ms. Newton stated one of her relatives is watching from a hospital room, and she wanted to thank them for watching and their support.

Ms. Myers stated Mr. Livingston’s absence is pursuant to Rule 3.2: “Each member shall be within the Council Chambers during its meetings unless excused or necessarily prevented. The Chair, if notified prior to the meeting, may excuse any member from attendance at meetings of the Council and its committees for any stated period upon reason shown, and such excused absence shall be noted in the minutes.”

4. **APPROVAL OF THE MINUTES**

- a. **Regular Session: December 3, 2019** – Ms. Dickerson moved, seconded by Ms. McBride, to approve the minutes as submitted.

Ms. Newton requested that minutes reflect that she voted in favor of Item 13(a): “19-041MA, Gerald K. James, RU to RC (5.6 Acres), 4008 Leesburg Road, TMS # R25000-01-04F & # R25000-01-04A (Portion of)”.

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

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

Present but Not Voting: Manning

The vote in favor was unanimous.

5. **ADOPTION OF THE AGENDA** – Ms. McBride moved, seconded by Ms. Newton, to adopt the agenda as published.

Mr. Farrar requested to add the following item under the Report of the Attorney for Executive Session: “Upper Township Lease Extension”.

Mr. Malinowski stated the rule on adding items to the agenda says, it takes 2/3 majority vote to add an item to the agenda. He believes, based on that rule, we need to vote to add the item, and then vote on the adopt of the agenda.

Ms. Dickerson moved, seconded by Ms. Newton, to amend the agenda to include the “Upper Township Lease Extension.”

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

Present but Not Voting: Manning

The vote in favor was unanimous.

Ms. McBride moved, seconded by Ms. Newton, to adopt the agenda as amended.

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

Present but Not Voting: Manning

The vote in favor was unanimous.

6. **REPORT OF THE ATTORNEY FOR EXECUTIVE SESSION ITEMS**

a. Richland County vs. SC Dept. of Revenue

b. Upper Township Lease Extension – Mr. Farrar stated, as he understands it, the Upper Township Magistrate is getting a new building. The Certificate of Occupancy is hitting about the same time the present lease expires, so there is going to be a timing gap to try to get moved into new building. If we stay under the present lease, there is a holdover provision, and we would not pay a penalty. If you authorize the extension of the lease until January 31, 2020, it saves the County some money.

Ms. Kennedy moved, seconded by Ms. McBride, to extend the lease for the Upper Township Magistrate until January 31, 2020, under the present terms.

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

Present but Not Voting: Manning

The vote in favor was unanimous.

7. **CITIZENS' INPUT**

- a. For Items on the Agenda Not Requiring a Public Hearing – No one signed up to speak.

8. **CITIZENS' INPUT**

- a. Must Pertain to Richland County Matters Not on the Agenda (Items for which a public hearing is required or a public hearing has been scheduled cannot be addressed at this time.) – No one signed up to speak.

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

10. **REPORT OF THE CLERK OF COUNCIL**

- a. CentralSC Holiday Drop-In, December 12, 5:00 – 7:00 PM, CentralSC Atrium, 1201 Main Street, Suite 100 – Ms. Roberts reminded Council of the upcoming CentralSC Holiday Drop-In.
- b. Richland County's OSBO Business Appreciation Mixer, December 12, 6:00 – 8:00 PM, Decker Center – Community Room, 2500 Decker Boulevard – Ms. Roberts reminded Council of the upcoming OSBO Business Appreciation Mixer.
- c. Richland County Magistrate's Holiday Luncheon, December 13, 11:30 AM, Trinity Education Community and Conference Center, 2523 Richland Street – Ms. Roberts reminded Council of the upcoming Richland County Magistrate's Holiday Luncheon.
- d. January Council Meetings – Ms. Roberts stated the January meeting schedule is as follows:
1. Regular Session: January 7, 2020 – 6:00 PM
 2. Council Retreat: January 23 – 24, Charleston, SC

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

12. **APPROVAL OF CONSENT ITEMS**

- a. 19-041MA, Gerald K. James, RU to RC (5.6 Acres), 4008 Leesburg Road, TMS # R25000-01-04F & R2500-01-04F (Portion of) [THIRD READING] – Ms. Newton moved, seconded by Ms. Terracio, 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.

13. **THIRD READING ITEMS**

- a. Authorizing the expansion of the boundaries of the I-77 Corridor Regional Industrial Park jointly developed with Fairfield County to include certain property located in Richland County, the execution and delivery of a Public Infrastructure Credit Agreement to provide for public

infrastructure credits to Ballpark, LLC; and other related matters – Mr. Jackson moved, seconded by Ms. Dickerson, to approve this item.

Ms. Dickerson stated she met with the Administrator and staff regarding these two (2) items, but she still has questions. She noted there were attorneys in the audience for the entities, but she does not recall getting a briefing from the Legal Department on this matter.

Mr. Farrar stated he has seen the material, and if it something that Council would like to add an Executive Session item, he would be glad to brief them. Outside counsel is also present that could address the matter.

Ms. Myers requested outside counsel, which represents the County on these matters, to come forward to address Ms. Dickerson's concerns.

Mr. Jones stated these documents are coming to Council, as a result of the adoption, by Council, through the recommendation of the Economic Development Committee, of the Commercial Incentives policy. The actual incentives are delivered through an Infrastructure Credit Agreement. About two (2) years ago, Mr. Smith, Mr. Farrar, and his office met to set up a set of form incentive documents that everyone was comfortable with. The forms include extremely strong indemnification for the County, and also include rights of the County to claw back incentives in the event that people do not do what they say they are going to do. They presented those form documents as the documents that will be used by all of these projects, and have done so with great success. From a legal standpoint, they are comfortable with the documents. From a policy standpoint, the documents are putting into effect the commercial development policy, adopted by Council, as recommended by the Economic Development Committee. He apologized for not briefing Ms. Dickerson personally, but encouraged her to attend the Economic Development Committee meeting, in the future, or meet with him personally.

Mr. Malinowski stated this is a Third Reading item, and he does not understand why on a Third Reading item, we cannot be given certification date, when so many things throughout the document hinge on a certification date.

Mr. Ruble stated the way the program is set up is the developer builds their project. They also build public infrastructure. Upon certifying that they have achieved what they said they were going to do, and they have committed and achieved building the public infrastructure, then they certify to the County for reimbursement of those funds. That is when we are able to offer the incentive. You do not have certification dates because that date has not been set.

Mr. Malinowski noted the statement in the document states, "The Company shall certify to the County achievement of the Investment Commitment by no later than [DATE]..." He stated he knows they have not achieved the commitment, but do we not give them a date they have to have achieved the commitment by.

Mr. Ruble stated they will not receive any incentive until they have accomplished the commitment.

Mr. Malinowski stated we are not giving them any incentive to get that incentive by leaving an open ended date.

Mr. Ruble stated it is sort of self-certifying. If they do not build, they do not get the incentive, so it polices itself.

Mr. Malinowski stated he could say that he is in the process of building five (5) or ten (10) years from now, and he is not going to be cut off because he is telling the County that he is still building. Therefore, his certification date has not arrived. It seems to him, if we are giving them an incentive we should give them a deadline by which they can collect those incentives.

Mr. Ruble stated they had not contemplated that because they do not receive incentives until after they have built.

Ms. Myers stated she agrees with Mr. Malinowski that some sunset should be applied.

Mr. Ruble stated they typically use a 5-year investment window. They could go back and address that. Since this is a Third Reading item, they would prefer to address this going forward.

Mr. Malinowski stated Richland County is not in the business of traffic signal, so who will be responsible for the maintenance and payment of the traffic signal once it is installed.

Mr. Ruble responded that the developer would be pay for the installation of the traffic signal. If the signal is on a State highway, SCDOT would be responsible, but it will not be Richland County.

Mr. Malinowski inquired if anyone discussed with CMRTA putting in the bus stop.

Mr. Ruble stated that would be something that would be between the CMRTA and the developer.

Mr. Manning stated, at one point, Council wanted to do something about blight and revivification. When we were talking about Decker Blvd. and the Master Plan District, which was covered in the referendum, we were told that we could not have nice looking, attractive lights because whenever someone hit the pole we would be responsible. He inquired if the Legislature had changed something in the last 3 months.

Mr. Ruble stated he could not speak to that. They do not get involved in vetting each of those public infrastructure items.

Ms. Myers inquired if it is prudent for our documents to state specifically that any maintenance, upkeep, repairs, or installation of traffic signals belong to the recipient, and not the County.

Mr. Farrar stated any time you take away the ambiguous about liability it is a helpful thing. He does not know if that has been negotiated, which would be a concern.

Mr. Malinowski inquired if this is time-sensitive, or can it be deferred.

Mr. Ruble stated he knows the developers believe it is time-sensitive.

Mr. Jackson stated, if our Legal Department assures us they will look into it, and address it, he is comfortable with moving it forward.

Mr. Jackson amended the motion to approve this item with the understanding that the issues raised tonight will be addressed, by the Legal Department, in the final document executed with the developers.

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

Opposed: Malinowski and Myers

Present but Not Voting: Manning

The vote was in favor.

POINT OF PERSONAL PRIVILEGE – Mr. Manning inquired if three (3) readings and a public hearing is covered in State law. It is sounding to him like three (3) readings is not another. This one looks like it needed a fourth reading. If he were to make a motion that we scrap three (3) readings and public hearing, and make a motion for four (4) readings and a public hearing, where would that be addressed.

Mr. Farrar stated that is covered in State law. It is an interesting question if you could go above what State law dictates.

Mr. Manning stated that is something the Rule and Appointments Committee could take up by seeing how many times we get to Third Reading and people have questions, and we do caveats and nebulous stuff.

POINT OF PERSONAL PRIVILEGE – Ms. Dickerson stated one of her concerns is, after a long debate with staff and our Administrator yesterday, things coming to us already prepared and laid out. She stated if we are going to start something we need to be engaged in the beginning before it gets to Economic Development, so Council can have some input. She believes the Chair should send things to Economic Development, rather than dropping prepared documents on us. She stated she does not get in on the first part of it, and then when it gets to committee she is told she can sit in on the committee meeting.

- b. Authorizing the expansion of the boundaries of the I-77 Corridor Regional Industrial Park jointly developed with Fairfield County to include certain property located in Richland County; the execution and delivery of a Public Infrastructure Credit Agreement to provide for public infrastructure credits to B-6 Benet Horger LLC; and other related matters – Mr. Jackson moved, seconded by Ms. Kennedy, to approve this item.

Mr. Malinowski stated, at First Reading, there was information contained in the ordinance, which Council voted on, that was not there at Second Reading, and is not here at Third Reading. He stated it was never pointed out any changes were made to the document. We need, as a Council, to be made aware of any changes that take place in these detailed documents.

Mr. Jackson stated he agrees any changes should be identified.

Mr. Malinowski stated we are using funds, which ultimately would be in the County's coffer to be used for something, to build a parking structure, which is considered economic development. However, out of the parking structure that is being built, the number of spaces available to the public is about 21%. So, how can we say this is a public infrastructure parking garage, when only 21% can be used by the public and the remaining 79% is used by the private people occupying the surrounding buildings.

Mr. Ruble stated the public infrastructure component was defined rather loosely, to include parking garages. He stated we previously had an incentive set up to promote student housing. What he heard from developers that were not receiving that incentive was that we were providing a mechanism for out of State developers to come into the County and line their pockets. One of the

things we intended to do with this program was to establish a mechanism, if we provided an incentive, where the money would be spent in Richland County. A parking garage, which we can argue about whether that is public infrastructure, or a mechanism to propel this development into happening, at the end of the day, it accomplishes one significant goal, which is to make sure somebody is not going to buy a yacht with money, but the money is being spent in Richland County.

Ms. Dickerson inquired if there is any way to ensure her that we can have a larger percentage in the parking lot. She stated she does not like for her citizens to be cheated. The developers should be more sensitive to the community, in terms of making sure we have more parking for the public versus it being consumed by the developer. She inquired if there is anyway it can be taken care of before we approve the minutes.

Mr. Ruble stated they discussed, at the EDC meeting, putting that in the policy guidelines, and we left it out. This is a tool that is used, called a multi-county park, and is a County incentive. However, if it happens in the City, the City has to consent. The City has discussed making that a requirement, on top of what we require.

Mr. Coble stated this policy, which was adopted by the County and the City, laid out the rules. All of the developers here know what the rules are, and come and invest in Richland County. The parking lot before you is 345 spaces; 74 are metered and available to the public, at all times, and 271 will be available to the public on a monthly basis. The City has given First Reading, and is scheduled for Second Reading for next week. If there is anything they can massage and work through, they certainly will do that. The developers want to invest in Richland County, and increase the tax base.

Mr. Malinowski stated what Mr. Coble is saying conflicts with the information Council has before them. He stated Mr. Coble is correct on the number of total spaces. The lowest level will provide 74 spaces for the general public. The remaining spaces will serve the residential and office uses within the Bull Street District. It says nothing about the public.

Mr. Coble stated the spaces are available for anyone to lease on a monthly basis.

Ms. McBride thanked Mr. Coble for sharing the information he has shared. Oftentimes, on Council, we abstain in voting, and it is not that we see the project as not good, but there are some missing points, so we need the additional information. In the future, we need to continue to have this type of discussion, even in committee meetings, and get the answers that we need. She fully supports economic development, but oftentimes she has abstained because she did not have enough information, or means of evaluating the benefits of these projects to the constituents. It is her goal to always put the constituents first, and get the information that is needed. Sometimes there is a gray area, so this is helping to clarify.

Ms. Myers stated she will be voting against this item because she does not feel that parking garages are economic development.

Ms. Terracio stated she supports what is going on at Bull Street, but she does know the more parking we create the more we contribute to traffic. She would like it to be considered, as we go forward with these development projects, that we consider ways to encourage public transportation use to move people more efficiently, and conveniently throughout the County.

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

Opposed: Malinowski, Newton and Myers

The vote was in favor.

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

- a. Authorizing the expansion of the boundaries of the I-77 Corridor Regional Industrial Park jointly developed with Fairfield County to include certain property located in Richland County; the execution and delivery of a Public Infrastructure Credit Agreement to provide for public infrastructure credits to a company identified for the time being as Project Huger; and other related matters – Mr. Jackson stated the committee recommended approval of this item.

Ms. Dickerson inquired if this is First Reading by Title Only.

Mr. Farrar stated it appears the full ordinance in the packet; therefore, it would not be by title only.

Ms. Terracio stated has not been made aware of the address this item, so it would be difficult for her to support this in light of what constituents may think.

Mr. Ruble stated this came in at the last minute. If you would prefer, it can be deferred until February and get all of the pertinent information to Council.

Ms. Terracio made a substitute motion, seconded by Ms. Dickerson, to defer this item.

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

Opposed: Jackson and Manning

The vote was in favor.

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

- a. Richland Memorial Board of Trustees – Five (5) Vacancies – Ms. Newton stated the committee recommended appointing Mr. Charles D. Waddell, Ms. Shirley D. Mills, Mr. Edwin B. Garrison, Dr. Traci Young Cooper and Mr. Carlton Boyd.

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

The vote in favor was unanimous.

- b. Township Auditorium Board – One (1) Vacancy – Ms. Newton stated the committee recommended appointing Mr. Andrew N. Theodore.

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

The vote in favor was unanimous.

- c. Central Midlands Regional Transit Authority – One (1) Vacancy – Ms. Newton stated this item was held in committee. The committee was notified that the CMRTA would like to reevaluate the make-up of their board. The committee would like to request additional information before they made a recommendation to Council.

- d. Lexington/Richland Alcohol and Drug Abuse Council – One (1) Vacancy – Ms. Newton stated the committee recommended re-advertising for this vacancy.

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

Present but Not Voting: Manning

The vote in favor was unanimous.

- e. Board of Assessment Appeals – Two (2) Vacancies – Ms. Newton stated the committee recommended re-advertising for these vacancies.

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 THE TRANSPORTATION AD HOC COMMITTEE**

- a. Transportation Project Budget Approval – Mr. Jackson stated the committee recommends approval of the requested budget.

Ms. Newton stated, immediately prior to the meeting, they were provided a new handout. She stated she wanted to understand what the new handout was, and if it applied to this item.

Mr. Brown stated, earlier the committee had a conversation about what made better sense to present to the body. At the time of the committee, there was a packet presented that included numbers for projects that were over the referendum. The committee had a tough time trying to digest why we would approve this, right now, knowing we have questions about how we are going to deal with items over the referendum. The committee recommended only approving the items that are not over the referendum. As a result, staff went back and took out the items that were showing over the referendum, so Council would only have in front of them what the committee recommended approving.

Ms. Newton stated, right now, we have projects on hold, pending a more comprehensive plan about how we are going to address the Penny. With that in mind, having removed the items that are above the referendum, she inquired as to what happens, if this is approved. What is the next step? Do those items remain on hold, but there are budgeted amounts available, when we are ready to move forward? Does approving this item immediately move things forward?

Mr. Jackson stated the plan is to move forward with the items before Council. Many of them have no legitimate reason for being on hold, except they got caught up in the items that were on the list that exceeded the referendum. The second step would be to hold a work session for those items in question, which are over the referendum.

Ms. Newton stated, from her perspective, she is looking to see a much more robust plan about how we are handling all of the Penny Projects. Once we have agreed on how we are going to handle the projects over the referendum, to look at those programs as a whole. For her, she would like to see

us move forward with these, as a result of a more comprehensive plan. So, if approving the budget is de facto saying, "Start these projects, right now", she would be a "No" vote. If it simply approving the funds, so they are set aside, she would support that.

Mr. Jackson stated there are many projects that have already started, but they stopped. We are not talking about projects that never got started. We are talking about projects that were put on hold. If you recall, Council gave instruction to the County Administrator to put all projects on hold, until we could resolve the issues. All projects meant, projects that were started, had not started, were over the referendum, or under the referendum. This motion is to take those projects, which will not have a negative impact on the Transportation Program, and allow them to resume. For example, Greene Street Phase II Project is a project where the contract has been awarded, the bids have been received, and the contract has been signed; however, that project got put on hold because it is not the list of projects that were over the referendum. In order to free up projects where there is no logical reason for having them hold, we had to bring the motion to approve the budget, for which those dollars are in, for those projects. During the committee discussion, we talked about those projects, which are over the referendum, and how we could distinguish between the two and not allow the whole ship to go down, while we are waiting on a philosophical debate about whether or not we agree with not funding projects over the referendum. Quite frankly, he does not agree that all projects that are over the referendum should be put on hold because there are a number of projects, due to the gross inaccuracies of the organization that did the evaluation of projects in the beginning, who gave us some underestimations, which were out of whack with reality. Now we are making decisions based upon those erroneous numbers, and using that as a benchmark to determine whether or not projects can move forward. Secondly, there are many projects because of the cost of inflation, the cost of doing business now versus 7 ½ years ago, when they were approved, have gone up. Some of them are on hold for a miniscule amount, yet because they exceed the referendum, we have placed them on hold.

Mr. Malinowski noted, p.151 states, "Included in this ordinance was \$69,000,000 in new money..." He inquired as to where the new money came from.

Mr. Niermeier stated the new money is from the debt financing they have in their account. If for some reason they needed more, it would come from the revenue.

Mr. Malinowski stated, for clarification, that is the BAN funding.

Mr. Niermeier responded in the affirmative.

Mr. Hayes stated the \$69,000,000 is what Council approved as Penny revenue for FY20.

Mr. Malinowski noted, on pp. 158-159, there is a discrepancy in the whether the bids were over or under the project estimate for Sidewalk Packages S12 and S13.

Mr. Niermeier stated, within the referendum, there were dollar amounts assigned from the Parsons Brinckerhoff study. The independent estimates for Sidewalk Packages S12 and S13 were high. When the bids came in, they were lower than the independent estimates.

Ms. Dickerson inquired if we have any projects that are under budget.

Mr. Niermeier stated he would have to go back and look at that, in order to give a solid answer.

Mr. Walker stated it looks to him as though Mr. Niermeier is proposing, cumulatively, to spend \$113M on projects.

Mr. Niermeier responded in the affirmative.

Mr. Walker stated we allocated \$68.5M in Penny Funds for FY20.

Mr. Hayes stated we rolled over \$72M from FY19. What we added to that is the additional new money from FY20.

Mr. Walker stated, for clarification, the difference is made up by Penny Funds.

Ms. Myers stated we have conceded there is considerably less money, than we need, for the dirt roads. She would request that set of projects be removed, and we research alternative methods of paving that do not require those roads to be engineered to the standards of an interstate highway.

Mr. Niermeier stated the money you see in the budget is to finish out the current dirt road projects, as well as Package K, which is ready to go next. To Ms. Myers' point, he spoke with Ms. Steele and Mr. McNesby about looking at the dirt roads to see if we are overdesigning, and if we can get more. The initial report, on how to address the dirt roads, and to see if we can squeeze more mileage out of the \$40M allocated for dirt roads, is due to him in January.

Ms. Myers stated her concern is, if you spend \$300,000 on 6 dirt roads, and we come back later and we can do a ¼ mile dirt road for \$10,000 - \$20,000, as opposed to \$50,000 - \$75,000, we have blown through so much money that we cannot go back and help ourselves to do better.

Ms. Dickerson stated she would recommend discussing this matter at the work session, instead of dealing with it tonight.

Ms. Myers stated we are planning on spending \$11M in FY20 for dirt roads.

Mr. Jackson made a friendly amendment to remove the dirt road projects, and funding, until we have the work session.

Mr. Niermeier stated they need some of the funding for current construction of dirt roads. Right now, there are four (4) open dirt road packages. They have design contracts in place, where work has previously been done, and we are invoicing for. Because this is not an over the referendum item, and is able to move forward, we can release further dirt road packages.

Mr. Jackson amended his friendly amendment that we approve the budget to only include the dirt roads that are under contract, at the present time.

Ms. Myers inquired if Mr. Jackson means under contract or under construction. She stated, if they are under contract, it could mean we are in initial design phase. She noted we could scale back and get more out of the funding.

Mr. Niermeier stated there are four (4) packages underway, one (1) that is ready to be released that has five (5) roads on it. The five (5) OETs, which previously had different design jobs, have been told to stop until we give them guidance to move forward. The design(s) could be at a certain percentage that the OETs would need to complete it.

Ms. Myers inquired about how many roads we plan to spend \$11M on.

Mr. Niermeier stated it would equate to approximately \$1M per mile.

Ms. Myers stated that is her point.

Mr. Niermeier stated that is why they have come back, and questioned how they can do this differently.

Mr. Brown inquired if Mr. Niermeier is referencing "dirt turning" construction, or if we are talking about a certain amount of design completion.

Mr. Niermeier stated he is referencing "dirt turning" construction.

Mr. Brown stated, for clarification, the dirt road packages Mr. Niermeier referenced are literally where we have been turning dirt, and they were put on hold because of the process that we went through before today.

Mr. Niermeier stated no design, no right-of-way, just construction, building, and paving dirt roads.

Ms. Newton stated it sounds like there were projects where dirt was turning, which are now on hold. She was under the distinct impression that Council's instruction was where shovels were in the ground, and things were not over the referendum, they would keep going. Now it sounds like that is not the case. Second, looking at the list, Mr. Jackson stated projects that were in progress were put on hold. She is unclear at what is represented on the list, and would request additional clarification.

Mr. Niermeier stated the guidance given, and what they have been working off, is if there was dirt moving, it is was considered a construction project and continued. Everything else was paused.

Ms. Newton stated, for clarification, all of the projects that were actively under construction, and under the referendum amount, have continued. If that is the case, is it true that none of these projects have shovels in the ground, or have had it.

Mr. Niermeier stated some of them have not (i.e. Greene Street), but many are ongoing (i.e. resurfacing project, dirt road paving projects, and sidewalk projects).

Mr. Jackson restated his motion as follows: "to approve the budget before Council, to include the dirt road projects that cannot be stopped, and to remove the funding and not start any new dirt road projects until a work session is held in January/February."

Ms. Myers inquired if Mr. Jackson is defining construction to include design.

Mr. Jackson inquired as to the percentage of the design we said before.

Mr. Niermeier stated dirt roads are a little bit of a different animal. The initial design shows what kind of ground we need, and you can start from there.

Ms. Myers inquired if that includes design work.

Mr. Niermeier stated he is separating that. If we are moving dirt, the design has been done.

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

Opposed: Malinowski, Newton, Myers and Walker

The vote was in favor.

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

In Favor: Malinowski, Newton, Myers and Walker

Opposed: Terracio, Jackson, Kennedy, Manning, Dickerson, Livingston and McBride

The motion for reconsideration failed.

- b. Transportation Projects in Acquisition and Under Contract Approval – Mr. Jackson stated the committee recommended approval to move forward with Greene Street Phase II, North Springs/Harrington Intersection, and the award of S12 (Harrison Road) and S13 (Polo Road) Sidewalk Packages.

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

Opposed: Malinowski, Newton, Myers, Walker and Dickerson

The vote was in favor.

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

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

Opposed: Jackson, Kennedy, Manning, Livingston and McBride

The vote was in favor of reconsideration.

17. **OTHER ITEMS**

- a. Resolution in Support of Dreamers by Congress – Mr. Manning moved, seconded by Ms. Terracio, to approve this item.

Mr. Walker stated he believes this is a Federal issue, which he would defer to those elected, at that level, as Senators and Congressmen to address on the appropriate level and floor; therefore, he will be voting “No” because he does not feel like it is an issue this Council should be taking up.

Mr. Malinowski stated the resolution, as written, is nothing more than generality, statements of someone’s opinion, and we have no specific to backup any of the information that has been placed there. As we have seen recently, if someone breaks the law on behalf of their children, by assisting to get them into college, those youths have been expelled. Yet, here we have the case of parents breaking the law to get into this country, and those students are going to be allowed to attend college, at a reduced rate, due to being given in-State tuition, and potentially amnesty.

Mr. Jackson stated although he agrees, in principle, with the issues being raised regarding the appropriate level for it to be handled, in logistical details; however, he does support the resolution

of adding Richland County's support for the efforts of protecting those 7,000 DACA recipients in South Carolina. In terms of support of the resolution, we should recognize the need to offer our support for those individuals who are so vulnerable for negative implications by the Federal government, he supports the resolution in its intent.

Ms. Newton stated she also supports the intent of this resolution, which is to acknowledge there are people who live in our country, and contribute to our country, whose legal status is in limbo. She wholeheartedly support, not just the resolution, but the comprehensive Immigration Reform to address all of our issues. She feels torn on this because, while she supports the human beings, she recognizes that Richland County really has no authority in this matter. Nor can we affect any future legislation that may be shaped. She recognizes the importance of resolving this legal situation, and certainly sympathize with the plight of those who are suffering, but she does not see what this resolution does. This is not really an action for Richland County, as it is for our national legislators.

Ms. Terracio stated there have been many instances where local governments have been able to pass resolutions in support of various laws, and policies, which may or may not be in our jurisdiction. For instance, offshore drilling had lots of municipalities and local governments pass resolutions against it, even though they did not have in their own power the capacity to affect the change. It did send a message to the bodies of government that could make those changes. We saw people change their minds on those issues. While we cannot directly change any laws from here, we can make a statement that can be heard at other levels.

Mr. Manning stated he agrees this is not a matter we can vote on. If it was it would have been a motion for a County ordinance. To say there is nothing we can do, when this is what we can do. As a governing body, we can consider the information that has been presented to let the people who make those decisions know how we would feel, as an elected body. Obviously, we cannot do the work of Congress, and they cannot do our work.

Mr. Malinowski stated, as elected officials, we also, in casting our votes, are supposed to get some input from our constituents. Not that we will always vote the way they want us to, but we should make the effort to do that. He has not received any input, or reached out to any of his constituents on this one, so to vote one way or the other on this would be strictly a personal preference versus any input from constituents.

Ms. Dickerson stated she fully supports the intent, and she understands where we are. She has been following this very closely over the past year. One of her concerns is, she does not recall any of our Congressmen asking us to give them any support, as a Council, to help them make a decision. She does not want to dip into their business, and she thinks they should minimize how they dip into ours. The fact of the matter is, once the resolution was approved, who would receive it.

Mr. Manning stated the resolution would be forwarded to the Congressional District representatives and the South Carolina Senators.

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

Opposed: Malinowski, Newton, Myers, Walker and Dickerson

The motion failed.

- b. Authorizing the issuance and sale of not to exceed \$175,000,000 General Obligation Bond Anticipation Notes, Series 2020, or such other appropriate series designation, of Richland County,

South Carolina; fixing the form and details of the notes; providing for the payment of the notes and the disposition proceeds thereof; and other matters relating thereto – Mr. Brown stated this is the necessary mechanism, as a result of Council’s previous action to roll the BAN forward. Since February is the deadline, we need to do it on this side of the timeline, before the BAN expires.

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

Mr. Malinowski stated, on p. 178, it indicates the County, in February 2019, issued \$175M General Obligation Bond Anticipation Notes, to mature in February 2020. He inquired about how much of the \$175M was used.

Ms. Hamm stated we have spent approximately \$75M.

Mr. Malinowski inquired as to the cost to the County for the BAN.

Ms. Hamm responded between the interest earned, and the premium and interest we have to pay, it will be approximately \$1M.

Mr. Malinowski inquired about the cost of the new BAN.

Ms. Hamm stated it will probably be about the same.

Ms. Newton inquired if the answer Ms. Hamm provided Mr. Malinowski, on the cost of the BAN, was the total costs of the BANs we have had, or was that just the last one.

Ms. Hamm stated that is for the current BAN. We have had five (5) BANs.

Ms. Newton stated, for clarification, we used the BAN funds simply to use it. We were not required, from a budgetary perspective, to spend that money. In other words, we had enough money in our fund balance for the Penny.

Ms. Hamm stated she is not sure we would have had it at the time we needed to pay the invoices. She would have to look at the timing issue closer to give a definitive answer, but we have to spend the BAN funds first before we spend any of the Penny funds.

Ms. Newton stated she was under the impression that we did not have to use all of the BAN funds, but that we have to use them first to pay the BAN down. She inquired as to how much collectively the fees have been for the BANs we have had.

Ms. Hamm stated it would be approximately \$3.1M.

Mr. Jackson stated the challenge is cash flow, so even though the money may be there, it may not be there at the time we need to pay the bills.

Ms. Hamm stated last year we spent \$75M, and last year we brought in about \$45M, and we did have some fund balance left.

Ms. Myers inquired about the transition fees.

Ms. Hamm stated the total cost of issuance for all the BANs was about \$2M. The interest and premium costs offset most of the interest costs.

Mr. Walker stated we talk about the timing of money, and the timing of collections, we know when we are collecting money, which is quarterly. We have an idea of what we are going to be spending given that we rolled forward \$70M+ in fund balance. We allocated \$68M to the program next year, and we are going to spend about \$113M, per the budget just approved.

Mr. Hayes stated, of the \$68M, approximately \$45M is dedicated to transportation projects. We also fund the CMRTA, and there are in-house costs. Of the new money, he budgeted \$40M.

Mr. Walker suggested a better practice would be to not let the outflow drive the inflow. In other words, only spend what we have. If we need to slow down, slow down. If timing is the issue, let's fix the timing, not borrow and incur more costs, and continue to spend soft cost out of this program, which could be \$5.2M in transaction costs, associated with five (5) BANs over the course of the program.

Ms. Hamm stated the \$2M is part of the \$3.1M.

Mr. Walker stated there will be approximately \$300,000 in transaction fees, plus the interest we lose against the arbitrage, to issue the new BAN. According to what the Transportation Director said earlier, these costs could be someone's dirt road.

Mr. Jackson stated the work to move forward with this item has already been determined. The debate would be a great debate to have in January.

Mr. Walker inquired about the effect of a prevailing "No" vote on this item.

Mr. Brown stated, based on the last conversation, the County has a limited amount of time in which they can borrow funds, which means you would lose your ability to borrow funds to handle the Penny work.

Mr. Walker stated, per an earlier vote, it was decided to rollover the BAN. He inquired what a "No" vote, of this item, allowing the issuance and sale of the BAN, do.

Mr. Jones stated it would effectively undo the prior vote of Council.

Mr. Walker made a substitute motion, seconded by Mr. Malinowski, to deny this item.

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

Opposed: Jackson, Kennedy, Manning, Dickerson and Livingston

The substitute motion failed.

Ms. Myers stated, for clarification, what we are preserving is our right to go out for \$250M, in a bond, and we have rolled this BAN forward five (5) times now. In her opinion what we need to decide is, if we really have to have this money, to stop with the BANs, and go on with the bond. To put people's feet to the fire, as to whether it is good to be going out for money to move this program forward, or not.

Ms. Myers made a substitute motion, seconded by Ms. Terracio, to issue General Obligation Bonds, rather than Bond Anticipation Notes.

Mr. Jackson stated he, along with 6 – 7 of his colleagues, were not here when the referendum went to the public for a vote. He recalls, as a voter, that there were two (2) parts to the vote. One was for the referendum. The other part was to fund the effort. Though he may philosophically agree with his colleagues, in regards to the rate we are spending, and the cash flow and scheduling. The voters sent a very clear message to us, and he, as a representative of those in District 9, am very clear they said they wanted us to borrow the necessary funds to get the Penny projects done. He thought when we brought it in-house, from the PDT, and we talked about the huge savings we were going to incur, it would have solved the issue regarding us accelerating and moving forward, but apparently it seems like it has not. The problem now, in his opinion, that we are debating an issue that the acceleration of spending has yet to come. We talk about how much money we spent last year, and the year before, but that rate is going to accelerate, not decelerate over the next several years. So, when we talk about voting against allowing funding in the future, when the rate of spending is going to be at its highest, he wants to go on record to say he thinks that is a tremendous mistake, by this body, and very shortsighted. If we are going to pay-as-we-go, when we get to the point where we no longer have funds to pay, and we have to stop it, he wants us to remember the conversation tonight.

Ms. Dickerson stated, in the referendum, it clearly stated the bonding capacity was in there for up to \$450M, so if there is any changes to that we need to be doing three (3) readings and a public hearing to alter that.

Ms. Newton stated, with the failure of the previous motion, it means, in effect, we would be implementing Tryon’s model, which is pay-as-we-go.

Ms. Myers stated the reason she offered a substitute motion was to obviate this continuous cycle of are we going to borrow, or are we not going to borrow, so Council members that do not want to borrow money, can say it on the record, and the County does not incur fees every year to borrow money again.

Ms. Newton stated, looking at a pay-as-we go model, because we have constantly been having these BANs, and we have used the money. From her perspective, from what she has heard tonight, it could have been avoided with better planning. She does not think this is saying, let’s plan and then have to stop programs in the future. If you have a budget, and you know when the money is coming in, then you plan to that. Quite frankly, you do not allow yourself to get into a position where you run out of money. You do not go out and borrow all this extra money, in case you get an extra car or mortgage. You know how much money you have, and you plan accordingly. She would support a pay-as-you-go model, based on the fact that we have had these BANs in the past that we have not used.

Mr. Malinowski agrees with Mr. Jackson that the people did vote for the issuance of up to \$450M in bonds, but nobody was told what the cost would be for issuance, which could have made a difference to some voters.

Ms. Myers stated the referendum does not require us to borrow money. It says, “We may.” She stated we are not disavowing what the voters voted for if we decide it is more prudent not to borrow money.

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

Present but Not Voting: Myers and Kennedy

The substitute motion failed.

Mr. Walker requested the difference between operational capabilities of the BAN and Bond.

Mr. Jones stated the County had a referendum in 2012, and State law says you have to issue something within five (5) years to preserve your ability to issue. At that time, Council adopted an ordinance (057-17HR) that gave the County the ability to issue up to \$250M of bonds. At that point, Council decided \$450M was not necessarily, so Council voted to issue up to \$250M, in bonds. Even at that time, there was still some disagreement over the pace of spending and projects, as a result BANs were used, instead of bonds. The crucial difference is BANs are shorter terms obligations. The interest on which, typically is cheaper, because they are short-term. As a result, each time the County has done a large BAN (\$250M, \$175M and another \$175M). In each instance, the County has done a short-term obligation because there was uncertainty about what the spending might look like. Originally, when this borrowing came up, there were three (3) options discussed:

- (1) To roll the BAN – Because there is still uncertainty about whether or not \$175M is necessary, or whether there is a different amount necessary. Rolling the BAN, in effect, is putting a pin in the matter, to revisit in a year;
- (2) Cash-on-Hand to pay off the BAN – If you did that, you effectively foreclose any future borrowing. There would be no reason to do any other borrowing because the BAN would be paid off. Of course, you would have to come up with \$175M, in order to do that. There was concern that could impact the ability to pay for projects.
- (3) Issue a \$175M Bond – If we issue a bond today, we would be issuing a long-term obligation, and effectively locking ourselves into borrowing \$175M, and you would be borrowing on long-term rates, which admittedly would be higher than a one-year rate on a BAN. However, it would be fair to point out that long-term rates are historically low right now.

Ms. Myers stated the reason she suggested that is if people want to borrow money, tell taxpayers you want to borrow money. In other words, she is saying make a decision rather than revisiting this next year.

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

Opposed: Terracio, Malinowski, Newton, Myers and Walker

The motion failed.

Ms. Myers inquired if we need to consider an item to pay off the outstanding amount of the BAN the County holds.

Ms. Hamm stated in February we would have to pay the \$175M, plus the \$5M in interest, for a total of \$180M.

Ms. Myers inquired as to how much is left from the original amount.

Ms. Hamm stated approximately \$100M.

Ms. Myers stated, for clarification, we need \$80M pay off the BAN.

Mr. Hayes stated there is approximately \$60M in fund balance.

Ms. Hamm stated that means we would have to come up with an additional \$20M. The County should receive a quarterly payment of \$10M in January.

Mr. Brown stated, his understanding is, by not doing this, you would be going on a cash basis. So, then you would have to default to build the program to whatever cash flow that you would have. In effect, anything that you have been doing with projected dollars, you would now have to go back and do with cash dollars, and timely match that up.

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

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

Opposed: Malinowski and Walker

The vote was in favor.

Mr. Jackson stated he is sensitive to his colleagues that are reluctant to support the BAN. However, maybe a more appropriate motion might be to request a lesser amount. If \$175M is too high, and not palpable to his colleagues, is there a number less than that that would be more in line with sort of paying as we go, but not making us totally bankrupt, and waiting on new money to come in.

Mr. Niermeier stated, if you recall, staff made a recommendation to bond \$150M, which would probably be the highest amount. What it would really take to find out what the lower number would be would entail taking the delays they have encountered and develop a new schedule, but we do not have the time.

Mr. Brown suggested deferring this item until after Executive Session to give Mr. Niermeier some time to get some idea of what that number would be.

Ms. Myers moved, seconded by Mr. Jackson, to issue a BAN not to exceed \$175M, with the understanding that is a true up to number, and staff will fill in the actual number that they need, rather than reflexively \$175M.

Ms. Newton stated, for clarification, the motion is for a General Obligation Bond or a BAN.

Ms. Myers responded that it is for a BAN.

Ms. Newton stated the BAN is for up to \$175M, with the idea that staff will come back with specific recommendations that would keep us as close to a pay-as-we-go program, or just up to \$175M.

Ms. Myers stated the goal is to only borrow what we need, and keep us reasonably close to the pay-as-we-go model.

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

Opposed: Malinowski and Walker

The vote was in favor.

POINT OF PERSONAL PRIVILEGE – Mr. Jackson stated he wanted to go on record, and make it clear to the public, and his colleagues that it is not his intent to stop, kill, slow, maim, lame, debilitate the

Transportation Program going forward. At the same time, he wants to be as prudent as everyone up here. His votes are to support the projects continuing to move. The significant amount that is being done in his district does not come to a screeching halt, when there are voters who have expected us to do the work, continue the work and complete the work. However, he does not want us to borrow more than we can spend. While, at the same time, he does not want us hamstrung into a process that will not allow us to accelerate that process, as we go forward, simply because we want to shut the Penny Program down.

POINT OF PERSONAL PRIVILEGE – Ms. Dickerson stated she has a lot of interest in this. Many of her projects are here. Some people this does not affect, but it affects a whole lot of us. She stated it is important to her to carry the message to them. Since this project started, we have been negatively portrayed in the newspaper, and she thinks it is time for us to come to a point where we can try to work together to show the public we are attempting to carry this program forward.

Ms. Newton stated she does support the Penny Program, and deeply believe we need these roads. We need them for safety and infrastructure purposes. We need them to be the kind of successful community that we want to be. Her votes for this are not votes to stop the program, but rather to demonstrate that we are having prudent planning, in terms of how we are executing the project, from an operational perspective, and from a fiscal perspective. Not only does she believe in this penny, but for our County to succeed we are going to need a Penny in the future. The only way we do that is to restore trust in this program, and showing we are being prudent with our dollars, and our plans.

- c. FY20 – District 7 Hospitality Tax Allocations – Ms. Dickerson moved, seconded by Mr. Jackson, to approve this item.

Mr. Walker stated he has not been voting in district Hospitality Tax allocation because he has a fundamental disagreement with the way we allocate Hospitality Tax. He would like to see the program revisited, and the way we distribute the dollars revisited. He is going to begin to vote, as of tonight, against all of the allocations. It is not a vote against any of colleagues. It is not a vote against any of the entities that are receiving the funds. It is just a fundamental vote against the way we do it.

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

Opposed: Walker

The vote was in favor.

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

In Favor: Walker

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

The motion for reconsideration failed.

18. **EXECUTIVE SESSION**

Ms. Dickerson moved, seconded by Ms. Terracio, to go into Executive Session.

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

Opposed: Malinowski, Jackson and Walker

The vote was in favor.

Council went into Executive Session at approximately 8:07 PM and came out at approximately 9:10 PM

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

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

Present but Not Voting: Manning

The vote in favor was unanimous.

- a. Richland County vs. SC Dept. of Revenue – Ms. Newton moved, seconded by Ms. Terracio, to proceed as discussed in Executive Session.

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

The vote in favor was unanimous.

Ms. Myers read into the record the following statement:

During our standing update, regarding the South Carolina DOR audit, Richland County Council members were made aware that a purported letter from South Carolina DOR to Council Chair Livingston was publicly provided. Richland County remains in negotiations with SCDOR regarding issues surrounding the Penny. Richland County will provide a statement once we have received and reviewed the relevant information. We remain committed to transparency and to resolving all disputes with SCDOR so that Richland County can move forward with the Penny. Thank you.

19. **MOTION PERIOD** – There were no motions submitted.

20. **ADJOURNMENT** – The meeting adjourned at approximately 9:21 PM